

Title 5 - BUSINESS TAXES, LICENSES AND REGULATIONS

Chapters:

Chapter 5.04 - BUSINESS LICENSES

Sections:

Article I - General Provisions

5.04.010 - Definitions.

For the purposes of this chapter, the words set out in this section shall have the following meanings:

- A. "Business, professions and trades" as used in this title means and includes all kinds of vocations, occupations, professions, enterprises, establishments and all other kind of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for the purpose of earning a profit, livelihood or for personal gain whether or not a profit, livelihood or personal gain is actually received therefrom. "Business, professions and trades" includes, but is not limited thereto, trades and occupations of all and every kind of calling carried on within the city, salesmen, brokers, retailers, wholesalers, vendors, suppliers, peddlers, professions, the renting or supplying of living quarters, tenants or occupiers in any other type of endeavor entered into within the city whether paid for in money, goods, labor or otherwise and whether or not the business, profession or trade has a fixed place of business in the city.

The business license law shall apply to all persons conducting a business, profession or trade within the city whether or not such person maintains a fixed place of business in the city and whether or not the person may primarily conduct his business, profession or trade elsewhere. Unless exempted by the provisions of the business license law, a person shall be deemed to be conducting a business, profession or trade within the city if he, or his agents, or employees offer, solicit, sell, contract, construct, make and deliver or repair, or perform acts or services in respect to the business, trade or professions within the city.

- B. "City" means the city of Farmersville, a municipal corporation of the state of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.
- C. "Employee" means all persons engaged in the operation or conduct of any business, whether as owner, any member of the owner's family, partner, agent, manager, solicitor and any and all other persons employed or working in said business.

- D. "Collector" means the city clerk, or other city official charged by the city manager with the administration of the provisions of this chapter.
- E. "Person" means all domestic and foreign corporations, associations, joint ventures, clubs, Massachusetts business, Delaware corporation or common law trusts, societies and individuals transacting and carrying on any business in the city.
- F. "Charitable organizations," "religious organizations," and "nonprofit organizations" mean any state or federally recognized religious charitable, fraternal, educational, military, state, county or municipal corporation or association formed from which profit is not derived either directly or indirectly.
- G. "Contractor" means any person who is required to be licensed as a contractor by the state, or any person who undertakes to, or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure, project, development, or improvement, or any part thereof, including the erection of scaffolding or other structures or works in connection therewith. "Contractor" means those persons defined as contractors by the provisions of Section 7026 of the Business and Professions Code of the state, as amended.
- H. "Gross receipts" includes the total of amounts actually received or receivable from sales and the total amounts actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or a credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, without any deduction therefrom on account of the costs, interest paid or payable, or losses or other expenses whatsoever. Excluded from "gross receipts" shall be the following:
1. Cash discounts allowed and taken on sales;
 2. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
 3. Such part of the sale price of property returned by purchasers upon rescission of the contract of sales as is refunded either in cash or by credit;
 4. Amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those for whom collected;
 5. Receipts of refundable deposits, except that refundable deposits forfeited and taken into income of the business shall not be excluded;
 - 6.

As to a commission sales agent or commission broker the sales price of goods or services sold for the account of others except that portion which represents the total gross commission or other income to the agent or broker;

7. As to a retail gasoline dealer, a portion of his receipts from the sale of motor vehicle fuels equal to the motor vehicle fuel license tax imposed by and previously paid under the provision of Part 2 of Division 2 of the Revenue and Taxation Code of the state of California;
8. As to a retail gasoline dealer, the special motor fuel tax imposed by Section 4041 of Title 26 of the United States Code if paid by the dealer or collected by him from the consumer or purchaser.
- I. "Itinerant merchant" means and includes all persons, both principals and agents, who engage in a temporary and transient business for a period less than three months in the city selling goods, wares, or merchandise and who, for the purpose of carrying on such business, hire, lease, or occupy any room, building, structure, lot, or premises for the exhibition or sale of such goods, wares, and merchandise, providing that this shall not apply to commercial travelers or selling agents selling their goods to merchants, dealers or traders, where same is to become part of said merchants, dealers or traders stock in trade in his regular trade of business, whether selling for present or future delivery by simply or otherwise as the same are defined in this chapter.

(Ord. 340 § 1(part), 1989)

5.04.020 - Revenue measure.

The ordinance codified in this chapter is enacted solely to raise revenue for municipal purposes, and is not intended for regulation. For statutory authority for cities to license for revenue and regulate every kind of lawful business transacted in the city, see Government Code Section 37101.5, with certain exceptions. For statutory provisions authorizing the city to license all business transacted within the city except wholesale travelers, see California Business and Professions Code Sections 16000 through 16003.

(Ord. 340 § 1(part), 1989)

5.04.030 - Other revenue ordinances.

Any person required to pay a license tax for transacting and carrying on any business under the ordinance codified in this chapter shall not be relieved from the payment of any license tax for the privilege of doing such business with has been required under any other ordinances or laws of the city, state or federal government, but shall remain subject to the regulatory provisions of such other ordinances or laws.

(Ord. 340 § 1(part), 1989)

5.04.040 - Effect of chapter on past actions and obligations previously accrued.

Neither the adoption of the ordinance codified in this chapter nor its superseding of any portion of any other ordinance of the city shall in any manner be construed to affect prosecution for violation of any other ordinance committed prior to the effective date of the ordinance codified in this chapter, nor be construed as a waiver of any license or any penalty provision to effect the validity of any bond or cash deposit required by any ordinance to be posted, filed or deposited, and all rights and obligations thereunto appertaining shall continue in full force and effect.

(Ord. 340 § 1(part), 1989)

Article II - License

5.04.050 - Required.

- A. There are imposed upon the businesses, trades, professions, callings and occupations specified in this chapter, license taxes in the amounts provided for in this chapter, and it is unlawful for any person to transact and carry on any business, trade, profession, calling or occupation in the city without first having procured a license from the city to do so or without complying with any and all applicable provisions of this code.
- B. The payment of a license tax required by this provisions of this chapter, and its acceptance by the city, and the issuance of such license to any person shall not entitle the holder thereof to carry on any business unless he has complied with all the requirements of this code and all other applicable laws, nor to carry on any business in any building or on any premises designated in such license in the event that such building or premises are situated in a zone or locality in which the conduct of such business is in violation of any law.

(Ord. 340 § 1(part), 1989)

5.04.060 - Branch establishments.

- A. A separate license must be obtained for each branch establishment or location of the business transacted and carried on.
- B. Each license shall authorize the licensee to transact and carry on only the business licensed thereby at the location and in the manner designated in such license; provided, that warehouses and distributing plants used in connection with and incidental to a business license under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments.
- C.

A separate license shall be obtained for each separate type of business operating at the same location in the city. Each such license shall authorize the licensee to carry on only the business licensed thereby at the location or in the manner designated in such license; provided, however, warehouses, storage yards and distributing plants used in connection with and incidental to a business licensed pursuant to the provisions of this chapter shall not be deemed to be separate locations of a single business or a separate type of business; and provided further, any person conducting two or more different types of business at the same location and under the same management, or at different locations, but which businesses have a single or integrated system of bookkeeping and financial records, may, at the city's option, pay only one tax calculated on the average number of the total gross receipts for all businesses at that location.

(Ord. 340 § 1(part), 1989)

5.04.070 - Exemptions.

- A. Constitution of the United States or of the State of California. Nothing in this chapter shall be deemed or construed to apply to any person transacting and carrying on any business exempt by virtue of the Constitution from the payment to municipal corporations of such taxes as are prescribed in this chapter.
- B. Charitable, Religious and Nonprofit Organizations. Any applicant for a business tax certificate to solicit funds for charitable religious or nonprofit purposes shall be required to register with the license department of the city, identify themselves, and establish their authority to act for the charitable, religious, or nonprofit cause which they purport to represent. The provisions of this chapter shall not be deemed or construed to require the payment of a business tax to conduct, manage, or carry on any business, occupation, or activity of any institution or organization recognized as a tax exempt institution or organization by the franchise tax board of the state or Internal Revenue Service of the United States carried on wholly for the benefit of religious, charitable, or nonprofit purposes and from which profit is not derived either directly or indirectly by any person. Nor shall any business tax be required for the conducting of any entertainment, concert, exhibition, or lecture on scientific, historical, literary, religious, or moral subjects whenever the receipts or net proceeds of any such entertainment, concert, exhibition, or lecture are appropriated or turned over to any church or school or to any bona fide religious or benevolent purpose within the city; nor shall any business tax be required for the conducting of any entertainment, dance, concert, exhibition, or lecture by any religious, charitable, fraternal, educational, military, state, county or municipal organization or association whenever the receipts of any such entertainment, dance, concert, exhibition, or lecture are to be appropriated for the purpose and objects for which such organization or association was formed and from which profit is not derived, either directly or indirectly, by any individual; provided, however, the provisions of this section shall not be deemed to exempt any person, organization, or association

from complying with the provisions of this chapter requiring a permit from the council or any commission or officer to conduct, manage, or carry on any profession, trade, calling, or occupation.

- C. Part-time Home Occupations. The provisions of this chapter shall not apply to any natural person engaged in the business, trade, occupation, or calling of part-time household servant or similar domestic worker, or to any minor under the age of eighteen or adult engaged in any part-time occupation provided the gross income of such natural person, minor, or adult from the business, trade, occupation, or calling does not exceed two thousand, four hundred dollars per year.
- D. Community Event Exemption. Nothing in this chapter shall be deemed or construed to apply to any religious, charitable, fraternal service, educational, military, state, county, volunteer firefighting, or municipal organization or association, their concessionaires or contractors for a community event held within the city; provided, the city council grants a no-fee permit for the event after making the following findings:
1. The organization has not sponsored or held an event after obtaining a no-fee permit pursuant to this subsection within a six-month period;
 2. The event shall not be for a duration longer than seven days;
 3. The event shall be open to the general public;
 4. The organization requesting the exemption is directly involved in the management of the event;
 5. Based on a report from the chief of police, the event has not been or is not likely to be a catalyst for an unusual level of illegal activity within the community;
 6. A portion of the moneys from the event will be appropriated for the purpose and objects for which such organization or association was formed.
- E. Disabled Veterans. Every honorably discharged sailor, soldier, marine, airman, or coastguardsman of the United States, who is unable to earn a livelihood by manual labor, shall have the right to hawk, peddle or vend goods, wares and merchandise, except spirituous, malt, vinous, or other intoxicating liquors, without any license fee whatsoever. A license shall be issued to such honorably discharged soldier, sailor, marine, airman, or coastguardsman, upon producing his discharge, and making proof of his disability as provided in this chapter.
- F. Farmers and Ranchers. The provisions of this chapter shall not be deemed or construed to require the payment of a license tax by farmers or ranchers to carry on any business, occupation, or activity selling edible agricultural or horticultural produce, dairy products, livestock, poultry products, fish, fowl or animals actually produced or raised on their farm, ranch or property, except when such sales are made at any established sales stand or business establishment.
- G. Effect of Other Fees Paid. Nothing in this chapter shall be deemed or construed to impose a business tax on any holder of any franchise from the city where the holder of the franchise pays fees to the city by virtue of an obligation imposed by the franchisee unless provided for in the

franchise.

- H. Claim for Exemption and Determination of Exemption. Any person claiming an exemption pursuant to this section shall file a verified statement with the city clerk stating the facts upon which exemptions are claimed. The city clerk shall, upon a proper showing contained in the verified statement, issue a license to such person claiming an exemption. The license so granted shall not require payment to the city of the license fee required by this chapter.
- I. Revocation. The city clerk may revoke any license granted pursuant to the provisions of this chapter upon information that the licensee is not entitled to the exemption as provided in this chapter.
- J. Appeal to City Council. The determination of the city clerk regarding the revocation of any exemption may be appealed by the holder of the revoked exemption to the city council within ten calendar days of receiving written notice of the revocation.

(Ord. 357 § 1, 1992; Ord. 340 § 1(part), 1989)

5.04.080 - Evidence of doing business.

When any person, by the use of signs, circulars, cards, telephone directories, or newspapers, advertises, holds out, or represents that they are in business in the city, or when any person holds an active license or permit issued by a governmental agency indicating that they are in business in the city, and such person fails to deny by a sworn statement given to the collector that he is conducting business in the city after being requested to do so by the collector or their representatives, such facts shall be considered prima facie evidence that such person is conducting business in the city.

(Ord. 340 § 1(part), 1989)

5.04.090 - Unlawful businesses not authorized.

- A. No business license issued pursuant to the provisions of this chapter, or the payment of any tax required under the provisions of this chapter, shall be construed as authorizing the conduct or continuance of any illegal business, or of a legal business in an illegal manner, or to conduct within the city the business for which a business license has been issued without complying with all the provisions of the laws of the city and state and federal laws, including, but not limited to, those requiring a permit from any board, commission, department, or office of the city, state or federal government.
- B. The collector shall not issue any business license, other than a renewal business license, to any fixed place of business within the city until such time as it is shown that the business has met the requirements of the planning, zoning, building, fire, health, and permit laws of the city and county, state or federal laws as may apply; and shall not issue a renewal business license to any business which is not in compliance with all such laws.

- C. Failure to comply with the provisions of this section shall constitute grounds for the refusal, suspension, or revocation of the business license.

(Ord. 340 § 1(part), 1989)

5.04.100 - Application—Contents of license.

Every person required to have a license under the provisions of this title shall make application for the same to the city clerk, and upon the payment of the prescribed tax the city clerk shall issue to such person a license which shall contain:

- A. Account number;
- B. Company name;
- C. Mailing address, city, state, zip code;
- D. The date of the expiration of such license;
- E. Such other information as may be necessary for the enforcement of the provisions of this chapter; and
- F. Misrepresentation. No person shall knowingly or intentionally misrepresent to any officer or employee of the city any material fact in procuring the licenses provided for in this chapter.

(Ord. 340 § 1(part), 1989)

5.04.110 - Application—Certification of clearance.

- A. All applications for a business license in the city shall obtain the approval of the planning department, the fire department, and if needed, as determined by the planner and fire department, a building inspection by the building inspector of the city. Until such approval has been obtained and filed with the city clerk, no business license will be issued to the applicant.
- B. If the approval is not obtained as required in this chapter, the application may appeal to the city council within ten days of denial and if ordered by the city council, the business license will be granted without the required approval.

(Ord. 340 § 1(part), 1989)

5.04.120 - Compliance with governmental regulations.

Every business, trade, profession or service which additionally requires any federal, state, county, or local regulatory license or permit, shall present evidence to the city clerk of satisfactory compliance with such regulations prior to the issuance of any business license under this title. Additionally, no license shall be issued by the city clerk to any business, trade, profession or service which fails to present any land use permit required by Title 17 of this code or which has failed to comply with the provisions of any other regulation of this code having to do with trades, businesses or occupations.

(Ord. 340 § 1(part), 1989)

5.04.130 - Businesses otherwise prohibited.

The payment of a business tax required by the provisions of this chapter, and its acceptance by the city and the issuance of a license to any person shall not entitle the holder thereof to carry on any business unless he has complied with all the requirements of this code and all other applicable laws, nor to carry on any business in any building or on any premises designated in such license in the event such building or premises is situated in a zone or locality in which the conduct of such business is in violation of any law. Under the circumstances named in this chapter, the fees paid shall not be refundable.

(Ord. 340 § 1(part), 1989)

5.04.140 - Application—Affidavit of first license.

- A. Upon a person making application for the first license to be issued under this chapter or for a newly established business, in all cases where the amount of license tax to be paid is based upon gross receipts, such person shall furnish to the city clerk for their guidance in ascertaining the amount of license tax to be paid by the applicant, a written sworn statement, upon a form provided by the city clerk, setting forth such information as may be therein required and as may be necessary to properly determine the amount of the license tax to be paid by the applicant.
- B. If the amount of the license tax to be paid by the applicant is based upon the gross receipts, he shall estimate the gross receipts for the period to be covered by the license to be issued. Such estimate, if accepted by the city clerk as reasonable, shall be used in determining the amount of license tax to be paid by the applicant; provided, however, the amount of the license tax so determined shall be tentative only, and such person shall, within ninety days after the expiration of the period for which such license was issued, furnish the city clerk with a sworn statement, upon a form furnished by the city clerk, showing the gross receipts during the period of such license, and the license tax for such period shall be finally ascertained and paid in the manner provided by this chapter for the ascertaining and paying of renewal license taxes for other businesses, after deducting from the payment found to be due, the amount paid at the time such first license was issued.
- C. The city clerk shall not issue to any such person another license for the same or any other business, until such person has furnished to the city clerk the written statement and paid the license tax as required in this chapter.

(Ord. 340 § 1(part), 1989)

5.04.150 - Application—Affidavit for renewal license.

In all cases, the applicant for the renewal of a license shall submit to the city clerk for his guidance in ascertaining the amount of the license tax to be paid of the applicant, a written sworn statement, upon a form to be provided by the city clerk, setting forth such information concerning the applicant's business during the next preceding year as may be required by the city clerk to enable him to ascertain the amount of the license tax to be paid by the applicant pursuant to the provisions of this chapter. The applicant shall certify to the truth of the application by affixing his signature to the document.

(Ord. 340 § 1(part), 1989)

5.04.160 - Statements not conclusive.

- A. No statement shall be conclusive as to the matters set forth therein, nor shall the filing of the same preclude the city from collecting by appropriate action such sum as is actually due and payable under this chapter.
- B. The information furnished or secured pursuant to this section for Sections 5.04.160 and 5.04.170 shall be confidential. Any unwarranted disclosure or use of such information by any officer or employee of the city shall be subject to the penalty provisions set forth in Section 5.04.570 of this chapter.

(Ord. 340 § 1(part), 1989)

5.04.170 - Failure to file statement or corrected statement.

- A. If any person fails to file any required statement within the time prescribed, or if after demand therefor made by the city clerk, he fails to file a corrected statement, the city clerk may determine the amount of license tax due from such person by means of such information as he may be able to obtain.
- B. In case such a determination is made, the city clerk shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States Post Office at Farmersville, California, postage prepaid, addressed to the person so assessed at his last known address. Such person may, within ten days after the mailing or serving of such notice, make application in writing to the city clerk for a hearing on the amount of the license tax. If such application is made, the city clerk must cause the matter to be set for hearing within thirty days before the city council. The city clerk shall give at least ten days' notice to such person of the time and place of hearing in the manner prescribed in this chapter for the service of notice of the tax. The council shall consider all evidence produced, and shall issue written notice of its findings thereon, which findings shall be final.

(Ord. 340 § 1(part), 1989)

5.04.180 - Statements—Audits and inspection.

- A. The statements required by the provisions of this chapter and each of the several items required to be stated thereon shall be subject to inspection and verification by any authorized agent of the city; provided, such inspection shall be limited to those books and records necessary to establish the gross receipts of an applicant or licensee.
- B. A certificate executed and delivered to the city by a certified public accountant licensed by the state shall establish a rebuttable presumption that the gross receipts of such licensee are as stated in the statements required by the provisions of this chapter.

(Ord. 340 § 1(part), 1989)

5.04.190 - Information confidential.

It is unlawful for the collector or any person having an administrative duty pursuant to the provisions of this chapter to make known in any manner whatever the business affairs, operations or information obtained by investigation of the records and equipment of any person required to obtain a license tax, or any other person visited or examined in the discharge of an official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person; provided, however, the provisions of this section shall not be construed to prevent:

- A. The disclosure to, or the examination of records and equipment by, another city official, employee or agent for the collection of taxes for the sole purpose of administering or enforcing any provision of this chapter or collecting taxes imposed by the provisions of this chapter;
- B. The disclosure of information to, or the examination of records by federal, state or county officials, or the tax officials of another city or county if a reciprocal arrangement exists with other city or county or to a grand jury or court of law upon subpoena;
- C. The disclosure of information and results of the examination of records of particular taxpayers, or relating to particular taxpayers, to a court of law in a proceeding brought to determine the existence or amount of any license tax liability of the particular taxpayers of the city;
- D. The disclosure, after the filing of a written request to such effects, to the taxpayer himself or to his successors, receivers, trustee, executors, administrators, assignees and guarantors, if directly interested, of information relating to the items included in the measure of any paid tax, any unpaid tax or amounts of tax required to be collected, including penalties; provided,

however, the city attorney shall approve such disclosure, the collector may refuse to make any disclosure set forth in this subsection when, in his opinion, the public interest would suffer thereby;

- E. The disclosure of names and addresses of persons to whom licenses have been issued and the general type or nature of their business;
- F. The disclosure by way of public meeting, or otherwise, of such information as may be necessary to the city council in order to permit it to be fully advised of the facts when a business files a claim for refund of license taxes, or submits an offer of compromise with regard to a claim asserted against him by the city for license taxes, or when acting upon any other matter; and
- G. The disclosure of general statistics regarding taxes collected or business done in the city. The provisions of this section shall be subject to the applicable provisions of the California Public Records Act (Title 1, Division 7, Chapter 3.5, Section 6250 et seq. of the California Government Code).

(Ord. 340 § 1(part), 1989)

5.04.200 - Persons aggrieved as to issuance or refusal to issue license-Appeals and hearings.

- A. Any person aggrieved by any decision of an employee of the city with respect to the issuance or refusal to issue such license may appeal to the council by filing a notice of appeal with the city clerk.
- B. The city clerk shall thereupon fix a time and place for hearing such appeal. Said hearing shall be within thirty days from the filing of a notice of appeal.
- C. The city clerk shall give notice to such person of the time and place of hearing by serving it personally or by depositing it in the United States Post Office, postage prepaid, addressed to such person at his last known address.

(Ord. 340 § 1(part), 1989)

5.04.210 - Filing time extensions for sworn statements or compromise on claims as to license tax due.

In addition to all other powers conferred upon them, the city clerk shall have the power, for good cause shown, to extend the time for filing any required sworn statement for a period not exceeding thirty days, and in such case to waive any penalty that would otherwise accrue and shall have the further power, to compromise any claim as to the amount of license tax due.

(Ord. 340 § 1(part), 1989)

5.04.220 - Nontransferability of license and amendment of license for changed location.

No license issued pursuant to this chapter shall be transferable; provided, that where a license is issued authorizing a person to transact and carry on a business at a particular place, such licensee may, upon application therefor and paying a fee set by resolution, have a license amended to authorize the transacting and carrying on of such business under the license at some other location to which the business is or is to be moved.

(Ord. 340 § 1(part), 1989)

5.04.230 - Unexpired licenses.

Where a license for revenue purposes has been issued to any business by the city and the tax paid therefor, the term of such license has not expired, then the license tax prescribed for the business by this chapter shall not be payable until the expiration of the term of such unexpired license.

(Ord. 340 § 1(part), 1989)

5.04.250 - Duplicate license.

A duplicate license may be issued by the city clerk to replace any license previously issued under this chapter which has been lost or destroyed, upon the licensees filing an affidavit attesting to such facts, and at the time of filing such affidavit paying to the city clerk a duplicate license fee as set by resolution.

(Ord. 340 § 1(part), 1989)

5.04.260 - Posting and keeping licenses.

All licenses must be kept and posted in the following manner:

- A. Any licensee transacting and carrying on business at a fixed place of business in the city shall keep the license posted in a conspicuous place upon the premises where such business is carried on.
- B. Any licensee transacting and carrying on business but not operating at a fixed place of business in the city shall keep the license upon his person at all times while transacting and carrying on such business within the city.

(Ord. 340 § 1(part), 1989)

Article III - License Tax

5.04.270 - Payment requirements.

All license taxes provided for in this chapter shall be paid on an annual basis, except for daily licenses. All licenses provided in this chapter to be paid in advance are as follows:

- A. Annual license taxes on the first day of January of each year, except when a new business is commenced during the year, in which case the license tax for such period shall be due and payable when such business is commenced and the license therefor issued may be prorated; provided, that such prorate shall be calculated by month and in no case be for less than one month;
- B. Daily license taxes each day in advance; daily licenses may be issued at any time for any number of days.

(Ord. 340 § 1(part), 1989)

5.04.280 - Penalties for failure to pay tax when due.

- A. Penalty for Nonpayment of Annual License. Every annual license which is not paid within a period of sixty days from the time the payment becomes due and payable is declared to be delinquent, and the city clerk shall thereupon add to said license and collect a penalty of twenty-five percent of the license so delinquent for each sixty day period said license is delinquent.
- B. Penalty for Nonpayment of Daily License. Every daily license which is not paid at the close of business on the day when the same was due and payable is delinquent, and the city clerk shall thereupon add to said license and collect a penalty of twenty-five percent of such license as is delinquent.

(Ord. 340 § 1(part), 1989)

5.04.290 - Procedure when ascertainment of tax due is difficult to compute.

- A. Whenever it is satisfactorily represented to the city clerk that the ascertainment of the gross annual income or receipts of any business concern transacting business in the city, is difficult to compute or that the cost of such computation would be out of proportion to the license fee to be paid, the city clerk may fix a flat annual license fee to be paid by the business concern in lieu of the fee based on gross annual income or receipts.
- B. Any such fee may be made retroactive to the first day of the calendar year in progress at the date of its adoption and shall remain in force and effect until modified by the city clerk.

(Ord. 340 § 1(part), 1989)

5.04.300 - Billboard advertising.

For every person conducting, carrying on or managing the business of bill posting, sign advertising, by means of billboards or advertising signboards, fences, posts, and buildings, shall pay an annual fee set by resolution; provided, that this section shall not apply to bulletin boards or newspapers, nor to signs posted on any building by the person conducting business therein, advertising his own business, nor to owners of real estate, or their agents, advertising their property for sale or lease, when posted upon the property advertised for sale or lease.

(Ord. 340 § 1(part), 1989)

5.04.310 - Card tables.

Every person conducting, managing or carrying on the business of running a cardroom shall pay an annual license fee as set by resolution.

(Ord. 340 § 1(part), 1989)

5.04.320 - Circuses and carnivals.

For every person, firm or corporation conducting, managing or carrying on a circus, carnival, caravan, menagerie, exhibits, or the business of palmistry, a daily license fee as set by resolution.

(Ord. 340 § 1(part), 1989)

5.04.330 - Contractors and subcontractors.

- A. General engineering, building contractors, and specialty contractors as defined in Sections 7056, 7057 and 7058 respectively of the Business and Professional Code who perform work or are located within the city shall pay an annual business fee as set by resolution.
- B. Any contractor carrying on the business of selling goods, wares or merchandise as a retailer or wholesaler at a fixed place of business within the city, in addition to his contractor's business license provided in this section, shall secure an annual license for such retail or wholesale business as set by resolution.
- C. It shall be the responsibility of every general building, engineering or prime contractor to require specialty contractors under his control or direction to pay an annual business tax as provide in this chapter before permitting the specialty contractor to begin or perform services for the general building, engineering or prime contractor.

(Ord. 340 § 1(part), 1989)

5.04.340 - Fruit packing business.

For every person conducting, carrying on or managing the business of packing or preparing green or dried fruits, for hire or otherwise, for shipment or otherwise, or for sale upon commission or otherwise, shall pay an annual license fee based on the gross receipts per a fee schedule set by resolution.

(Ord. 340 § 1(part), 1989)

5.04.350 - Handbills and printed advertising.

Every person not having a fixed place of business within the city conducting the business of commercial advertising by the distribution of handbills, circulars or other written or printed commercial advertising material shall pay an annual license tax as set by resolution. Said fee may be paid by the day or annually as determined by the city clerk. No credit shall be received for any daily tax paid in the event an annual license is thereafter obtained.

(Ord. 340 § 1(part), 1989)

5.04.360 - Hotels, motels, apartments and rental dwelling units.

Every person conducting, managing or carrying on a hotel, motel, apartment house or the rental or lease of a dwelling unit or units shall pay a license fee per dwelling unit, hotel or motel room annually as set by resolution, for any unit or room separately and individually rented or leased for any day during the year. The rental or lease of a hotel room, motel room or dwelling unit or units for the purpose of this section is the paying of an agreed sum at fixed intervals by hour, day, week, month or other period of time by a tenant to a landlord or innkeeper for the use of a dwelling unit, motel room or hotel room, including both periodic tenancy and tenancy at will or consideration of a gift of shelter to a caretaker or relative in exchange for services, or other gratuities does not preclude the unit as a rental. "Hotels, motels, apartments and dwelling units" are defined as in the latest edition of the Uniform Building Code, Part II, Chapter 4 "Definitions and Abbreviations."

(Ord. 340 § 1(part), 1989)

5.04.370 - Job printing.

Any person doing business outside the city, soliciting job printing within the city, shall pay an annual license fee based on the gross receipts as set by resolution.

(Ord. 340 § 1(part), 1989)

5.04.380 - Junk collector and pawn broker.

Every person conducting, managing or carrying on the business of pawn brokering, junk collector, junk dealing, and/or automobile wrecking shall pay an annual license tax as set by resolution.

(Ord. 340 § 1(part), 1989)

5.04.390 - Manufacturing.

One who engages in the business of manufacturing, fabricating or processing any materials, raw or partly wrought, into goods, wares or merchandise, or assembling or packaging any manufactured or processed material, whether such manufactured or processed goods are sold or distributed to wholesalers, brokers, or other channels for the purpose of resale and not otherwise licensed by any other provisions of this chapter shall pay an annual license fee set by resolution.

(Ord. 340 § 1(part), 1989)

5.04.400 - Outside firms making deliveries inside city.

A business operating and running a dray, automobile, truck or other vehicle used for the purpose of making deliveries of goods, wares or merchandise to retail and wholesale merchants within the city shall pay an annual fee based on gross receipts generated within the city as set by resolution. A concern selling at retail in the city from a truck or other vehicle shall pay an annual fee set by resolution.

(Ord. 340 § 1(part), 1989)

5.04.410 - Peddlers.

- A. For the purpose of this section, "peddling" is defined as going from house to house, place to place, or in or along the streets, within the city, selling and making immediate delivery or offering for sale and immediate delivery any goods, wares, merchandise, or anything of value, in possession of the peddler.
- B. Every person, outside of those conducting a regular place of business in the city, conducting, managing or carrying on the business of peddling any goods, wares, merchandise or anything of value not otherwise specifically licensed by this chapter, shall pay a license fee as set by resolution on a daily or annual basis as determined by the city clerk; provided, however, that the provisions of this section shall not apply to any person peddling agricultural, or poultry products produced, raised or grown by them.

(Ord. 340 § 1(part), 1989)

5.04.420 - Professionally and semiprofessionally connected business.

- A. Every person conducting, managing or carrying on any business enumerated in this section, or any combination thereof, shall pay an annual license fee based on the gross receipts per a fee schedule as set by resolution. The list is not necessarily conclusive and the city clerk may include other businesses that are commonly considered professional in nature.
1. Accountant;
 2. Auditor;
 3. Advertising;
 4. Advertising counsel;
 5. Appraiser;
 6. Architect;
 7. Assayer;
 8. Attorney-at-law;
 9. Certified public accountant;
 10. Chiropodist;
 11. Chiropractor;
 12. Civil engineer;
 13. Collection agency or mercantile agency;
 14. Consulting engineer;
 15. Dentist;
 16. Designer or decorator;
 17. Draftsman;
 18. Drugless practitioner (provided, however, that this section does not apply to persons who treat the sick through prayer or spiritual means);
 19. Electrical engineer;
 20. Electrologist;
 21. Geologist;
 22. Illustrator or show card writer;
 23. Landscape gardener, or landscape architect;
 24. Lapidary;
 25. Mechanical engineer;
 26. Money lender, or money broker, or person engaged in buying or selling obligations;
 27. Mortician;
 28. Newspaper and commercial printing;

29. Oculist;
30. Osteopath;
31. Outdoor advertising;
32. Physician;
33. Real estate broker;
34. Surgeon;
35. Surveyor;
36. Taxidermist;
37. Veterinarian.

B. Nothing contained in this section shall be deemed or construed as applying to any person engaged in any of the professions or occupations enumerated in this section solely as an employee of any other person conducting, managing or carrying on any such business in the city.

(Ord. 340 § 1(part), 1989)

5.04.430 - Property management.

This section applies to any person, firm or company who has been engaged by a property owner to manage residential rental units by renting and collecting rent on the units and by performing any other duties related to the upkeep of the property as agreed to with the property owner. Such person, firm or company shall pay an annual business license fee as set by resolution.

(Ord. 340 § 1(part), 1989)

5.04.440 - Selling by demonstration at parties.

No sale or sales of goods, wares or merchandise by means of party demonstration shall be made without a license therefor, issued to the person or persons, firm or corporation conducting or carrying on any such sale or sales. The license tax for any such party demonstration sale or sales is based on annual gross receipts and shall be paid annually as set by resolution.

(Ord. 340 § 1(part), 1989)

5.04.450 - Taxicabs.

The minimum license fee for a taxicab business which transports persons for hire upon or over the public streets of the city shall be based on gross receipts and shall be paid annually as set by resolution.

(Ord. 340 § 1(part), 1989)

5.04.460 - Theatres and moving pictures.

Every person conducting, managing or carrying on the business of producing theatrical or vaudeville performances, or the exhibition of motion pictures, or lectures or entertainments, or shows, or contests or exhibitions, not otherwise specifically licensed by this chapter, shall pay an annual license fee based on the gross receipts as set by resolution.

(Ord. 340 § 1(part), 1989)

5.04.480 - Wholesaling, retailing, jobbing and other businesses not specifically licensed.

Every person conducting, managing or carrying on all wholesale or retail or jobbing business, or otherwise engaged in the selling of goods, wares, merchandise, or other things of value, and not otherwise specifically licensed by this chapter, and every person conducting, managing or carrying on any business that is not specifically licensed by this chapter, shall pay an annual license fee based on the gross receipts per a fee schedule set by resolution.

(Ord. 340 § 1(part), 1989)

5.04.490 - Outside businesses.

Each person not having a fixed place of business within the city who carries on a business within the city shall pay an annual license tax as fixed by resolution based on gross receipts generated within the city.

(Ord. 340 § 1(part), 1989)

Article IV - General Requirements

5.04.500 - Interstate commerce.

- A. Every peddler, solicitor or other person claiming to be entitled to exemption from the payment of any license provided for in this section on the ground that such license casts a burden upon his right to engage in commerce with foreign nations or among the several states, or conflicts with the regulations of the United States Congress respecting interstate commerce shall file a verified statement with the city clerk, disclosing the interstate or other character of his business entitling such exemption.
- B. Such statement shall state the name and location of the company or firm for which the orders are to be solicited or secured, the name of the nearest local or state manager, if any, and his address, the kind of goods, wares or merchandise to be delivered, the place from which the same are to be

shipped or forwarded, the method of solicitation or taking orders, the location of any warehouse, factory or plant within the state, the method of delivery, the name and location of the residence of the applicants, and any other facts necessary to establish such claim of exemption.

- C. A copy of the order blank, contract form or other papers used by such person in taking orders shall be attached to the affidavit for the information of the city clerk.
- D. If it appears that the applicant is entitled to such exemption, the city clerk shall forthwith issue a free license.

(Ord. 340 § 1(part), 1989)

5.04.510 - Keeping records.

All persons doing business within the city shall at all times maintain and keep such books of record as will enable them to easily and readily furnish such information to the city clerk as said city clerk will require in order to enforce and collect the license fee to be paid and provided for in this chapter. Said records shall be maintained for at least three years.

(Ord. 340 § 1(part), 1989)

5.04.520 - Location of license payment.

All licenses provided for in this chapter to be paid shall be paid at the office of the city clerk.

(Ord. 340 § 1(part), 1989)

5.04.530 - Enforcement.

- A. It shall be the duty of the city clerk, and he is directed to enforce each and all of the provisions of this chapter, and the chief of police shall render such assistance in the enforcement of this chapter and the collection of license taxes under this chapter as may from time to time be required by the city clerk and/or the city council.
- B. The city clerk, in the exercise of the duties imposed upon him under this chapter, and acting through his deputies or duly authorized assistants, shall examine or cause to be examined all places of business in the city to ascertain whether the provisions of this chapter have been complied with.
- C. The city clerk and each and all of his assistants and any police officer shall have the power and authority to enter, free of charge, and at any reasonable time, any place of business required to be licensed in this chapter, and demand an exhibition of its license certificate. Any person having such license certificate theretofore issued, in his possession or under his control, who wilfully fails

to exhibit the same on demand, shall be subject to the penalties provided for in this title. It shall be the duty of the city clerk and each of his assistants to cause a complaint to be filed against any and all persons found to be violating any of the provisions.

(Ord. 340 § 1(part), 1989)

5.04.540 - License a debt.

The amount of any license tax and penalty imposed by the provisions of this chapter shall be deemed a debt to the city and any person carrying on any business without first having procured a license from said city to do so shall be liable to an action in the name of said city in any court of competent jurisdiction, for the amount of license tax and penalties imposed on such business.

(Ord. 340 § 1(part), 1989)

5.04.550 - Criminal and civil action authorized for failure to pay license tax.

The conviction and imprisonment of any person for engaging in any business without first obtaining a license to conduct such business shall not relieve such person from paying the license tax to conduct such business, nor shall the payment of any license tax prevent a criminal prosecution for the violation of any of the provisions of this chapter. All remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

(Ord. 340 § 1(part), 1989)

5.04.560 - Adjustment of fees.

All fees provided for under this chapter may be modified, adjusted or revoked by the adoption of a resolution

(Ord. 340 § 1(part), 1989)

5.04.570 - Penalty—Violation.

- A. Any person, firm or corporation, whether its principal, agency, employee or otherwise violating or causing the violation of any of the provisions of this title, or knowingly or intentionally misrepresenting to any officer or employee of this city, any material fact in securing a license or permit provided for in this chapter shall be deemed guilty of a misdemeanor or an infraction, as determined by the city manager or city attorney subject to the approval of the court, and upon conviction thereof shall be punishable as set out in Chapter 1.12 of this code.
- B. Such person, firm or corporation shall be deemed to be guilty of a separate offense for each and every day during any portion of which any violation of this title is and shall be punishable as

provided in Chapter 1.12 of this code.

C. The remedies provided for in this chapter shall be cumulative and not exclusive.

(Ord. 340 § 1(part), 1989)

Chapter 5.08 - BINGO

Sections:

5.08.010 - Statutory authority.

Pursuant to Section 19, Article IV of the Constitution of the state of California, and Section 326.5 of the Penal Code of the state of California, bingo games may be conducted in the city for the benefit of organizations which have their principal meeting place in the city and are exempt from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701e, 23701f, 23701g and 23701(l) of the Revenue and Taxation Code and for the benefit of mobile home park associations located within the city and senior citizen groups who have their principal meeting place within the city; provided, that the proceeds of such games are used only for charitable purposes except as provided for in this chapter.

(Ord. 335 § 1, 1989)

5.08.020 - Definition.

For purposes of this chapter, the following words and phrases shall have the meanings set forth in this chapter:

- A. "Bingo" means a game of chance at which prizes are awarded on the basis of designated number of symbols on a card which conform to numbers or symbols selected at random, notwithstanding Section 330c of the California Penal Code, as used in this chapter, the game of bingo shall include cards having numbers or symbols which are concealed and preprinted in a manner providing for distribution of prizes. The winning cards shall not be known prior to the game by any person participating in playing or operation of the bingo game. All such printed cards shall bear the legend "for sale or use only in a bingo game authorized under California law and pursuant to local ordinance."
- B. "Chief of police/fire" means the chief of police of the city of Farmersville.
- C. "City" means the city of Farmersville.
- D. "City clerk" means the city clerk of the city of Farmersville.
- E. "City council" means the city council of the city of Farmersville.
- F. "City manager" means the administrative head of the city under the direction and control of the city council.

- G. "Fire department" means that individual designated by the city manager or chief of police/fire to perform fire inspections for the city.
- H. "Minor" means any person under the age of eighteen years.
- I. "Mobile home park associations" means any organization meeting the following criteria:
 - 1. The purpose of the organization is to improve the social, recreational, economic, medical and/or housing conditions of individuals living within a mobile home park within the city.
 - 2. The membership in the association shall be limited to individuals either owning or renting property within the mobile home park.
 - 3. The association shall have a duly adopted constitution or bylaws stating the purpose of the association and the qualifications of membership and providing for the election of officers and which shall meet at least once each month.
 - 4. The principal meeting place is in the mobile home park which the association represents.
- J. "Nonprofit organization" means any tax exempt organization, senior citizen organization or mobile home park association as such terms are defined in this section.
- K. "Planning department" means that individual designated by the city manager or city council to perform those planning responsibilities of the city.
- L. "Senior citizen" means any person of age 60 or older, or any person of age fifty or older who no longer engages in full-time employment.
- M. "Senior citizen organization" means any organization meeting the following criteria:
 - 1. The purpose of the organization is to improve the social, recreational, economic, medical and/or housing conditions of senior citizens within the city.
 - 2. Membership in the organization shall be limited to senior citizens and their spouses.
 - 3. The organization shall have a duly adopted constitution or bylaws stating the purpose of the organization, the qualifications of membership, providing for the election of officers and which shall meet at least once each month.
 - 4. The principal meeting place of the organization is within the corporate limits of the city.
- N. "Tax exempt organization" means any organization exempted from the payment of the bank and incorporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g and 23701(l) of the Revenue and Taxation Code, mobile home park associations and senior citizen organizations meeting the criteria in this chapter.

(Ord. 335 § 1(part), 1989)

5.08.025 - License required.

It is unlawful for any person to conduct any bingo game in the city unless such person is a member of a nonprofit organization, senior citizen group or mobile home association acting on behalf of such group which has been issued a license as provided for in this chapter.

(Ord. 335 § 1(part), 1989)

5.08.030 - Application for license.

Any organization wishing to conduct bingo games in the city shall apply to the city clerk and receive a license from the city manager before conducting any such games. The appropriate fee as set forth in the city's comprehensive fee resolution shall be paid to the city at the time of application or its renewal and shall be nonrefundable except as provided for in Section 5.08.060.

(Ord. 335 § 1(part), 1989)

5.08.040 - License—Issuance process.

If the applicant is a tax exempt organization, it shall accompany the application with a certificate or letter from the State Franchise Tax Board stating the applicant is exempt from the payment of bank and corporation taxes or other proof satisfactory to the city clerk that the organization is a tax exempt organization as provided for in the State's Revenue and Taxation Code. If the applicant is a senior citizen organization, or mobile home park association, it shall provide proof to the satisfaction of the city clerk that it satisfies the criteria provided for in Section 5.08.020(I) or (M) of this chapter. Such proof may include, but is not limited to a copy of the organization's constitution and/or bylaws. The application shall contain the following:

- A. The name of the organization proposing to conduct such games together with the names, signatures and addresses of all officers of the organization;
- B. The address of the premises where the bingo games are proposed to be conducted;
- C. The names of the owners and, if any, leasees of the premises where the bingo games are proposed to be conducted;
- D. The principal purpose for which the premises are used by the organization together with the length of time for which the premises have been so used;
- E. The name, address and photograph of the person primarily responsible for the operation of the bingo game and the names and addresses of those persons assisting therewith;
- F. The days and hours proposed for the operation of bingo games;
- G. Proposed arrangements for security;
- H. Diagram of the location clearly showing room layout, restroom facilities, exits, fire protection equipment and parking;

- I. Such other information as may be required by the city clerk;
- J. The application shall be signed by a principal officer of the applicant under penalty of perjury.

(Ord. 335 § 1(part), 1989)

5.08.050 - Consent to investigation.

Filing of an application for a license to conduct a bingo game within the city shall be deemed consent by the applicant for the city clerk and/or designee to conduct an investigation to determine if all the statements on the application are true, to investigate the officers of the applicant and the person who will be primarily responsible for the operation of the bingo game and those persons who will assist therein as to any criminal record which they may have, and to disclose such information to the city manager and upon appeal to the city council. The filing of an application shall also be deemed consent for the city to inspect the premises as may be necessary in order to meet fire department and zoning requirements.

(Ord. 335 § 1(part), 1989)

5.08.055 - Investigation.

The city clerk shall determine if all the statements on the application are true and shall obtain the criminal record, if any, of the principal officers of the organization, each person who will be primarily responsible for the operation of the bingo game and those persons who will assist therein. The city clerk shall recommend the issuance of a license; except:

- A. In the event the city clerk finds any of the statements on the application to be false, she may recommend against its issuance, and in the event she finds any officer of the organization or person who will be primarily responsible for the operation of the bingo games or any person who will assist therein to have been convicted within the last ten years of crimes involving lotteries, gambling, larceny, perjury, bribery, extortion or fraud, she shall recommend against the issuance.
- B. Finds that the chief of police, fire department or planning department recommends against the issuance of the license due to violations of the city's fire code, zoning law, unsafe condition of the property, conflicts with city zoning or building law or prior or current criminal activity.
- C. It is determined by the city clerk that the organization applying for the license has failed to comply with any provisions of this chapter within the last two years.

(Ord. 335 § 1(part), 1989)

5.08.060 - Denial of license.

In the event the chief of police, fire department or planning department recommends against the issuance of the license or the city clerk has made any of the findings as provided for in Section 5.08.055 of this chapter the city manager shall refuse to issue such license and one-half of any license fee paid shall be refunded to the organization that filed the application, unless the denial is overruled by the city council.

(Ord. 335 § 1(part), 1989)

5.08.065 - Appeal.

Any applicant or licensee may appeal to the city council any order or action of the city manager respecting the issuance, denial, modification, suspension or revocation of any bingo license. Any appeal of the denial to issue, a suspension of, a revocation of, modification of or suspension of a license applied for or previously granted shall be made by an officer or the organization affected by such action to the city council within fifteen days of the action thereof. In the event the appeal is not filed within the fifteen-day period, the applicant or licensee waives all further rights of appeal and the organization shall wait a minimum of six months before the reapplying for a bingo license.

(Ord. 335 § 1(part), 1989)

5.08.070 - Issuance of license.

In the event the city manager does not receive a recommendation against the issuance of the license, he shall issue the same for a period of two years, such license shall contain the following information:

- A. Name, principal address and nature of the organization to whom the license is issued;
- B. The address where the bingo games are authorized to be conducted;
- C. The maximum occupancy of the room in which the bingo games are being conducted;
- D. The date of the commencement of the license;
- E. The date of the expiration of the license;
- F. The days and hours during which bingo may be conducted;
- G. Such conditions as may have been recommended by the city clerk, chief of police, planning department or fire department.

(Ord. 335 § 1(part), 1989)

5.08.072 - Posting of license.

The licensee shall keep the license posted in an conspicuous place within the room in which bingo is being played during the conduct of any such games. The licensee shall produce and exhibit the same whenever requested to do so by the city manager, city clerk, chief of police or police officer of the city.

(Ord. 335 § 1(part), 1989)

5.08.075 - License nontransferable.

Any license granted under this chapter shall not be transferred either as to the licensee or the location. Any use of the license other than by the named licensee or other than at the address where the bingo games are authorized to be conducted shall render the license invalid.

(Ord. 335 § 1(part), 1989)

5.08.080 - Conditions of operation.

It is unlawful for any bingo games to be operated in violation of any of the following conditions:

- A. No minor shall be allowed to participate in any bingo games.
- B. All bingo games shall be open to the public, not just to the members of the nonprofit organization, senior citizen group or mobile home park association member.
- C. No person shall be allowed to participate in a bingo game unless the person is physically present at the time and place in which the bingo game is conducted.
- D. The total value of prizes awarded during the conduction of any bingo games shall not exceed two hundred fifty dollars in cash, in kind or both for each separate game which is held.
- E. Attendance at any bingo game shall be limited to the occupancy capacity of the room as set forth in the license.
- F. No licensee shall issue chips or money to a patron on credit or a loan including but not limited to I.O.U.'s and checks to be held, nor shall patrons be allowed to play on credit.
- G. No person who is obviously intoxicated shall be allowed to participate in any bingo games.
- H. No licensee shall conduct any bingo game except between the hours of twelve noon and ten p.m., nor shall any licensee conduct bingo games for more than six hours during any twenty-four period nor shall any licensee conduct bingo games more than two days in any seven-day period.
- I. No person shall violate any of the conditions attached to the license.
- J. Licensee shall post and keep posted in an conspicuous place within the room in which bingo is being played the rules and regulations of the game.
- K. No person shall conduct any bingo game after the license therefore has expired or during any period in which it is suspended.
- L. The licensee shall conduct a bingo game only on property owned, leased by it or donated to it and which property is used by such organization for an officer, as a regular meeting place or for performance of the purposes for which the organization was organized. Nothing in this

subsection shall be constituted to require that the property owned, leased or donated by/to the organization be used, leased or donated exclusively by/to such organization.

- M. The licensee shall keep a written record of the name, address, phone number and date of birth of each person receiving a prize for three years, which record shall be made available to the city manager or his designee upon request.

(Ord. 335 § 1(part), 1989)

5.08.085 - Operators.

Any bingo game shall be operated and staffed only by member of the licensee organization. Such members shall not receive a profit, wage, salary or other form of compensation from any bingo games. Only the licensee shall operate such games or participate in the promotion, advertising, supervision or other phases of the game and no wage, salary or other payment may be made on account thereof from funds received from such game. This section is not intended to preclude the employment of security personnel who are no members of the licensee organization at such bingo games by the organization conducting the game or to preclude the payment of the security personnel from revenues of the bingo games.

(Ord. 335 § 1(part), 1989)

5.08.090 - Ownership of equipment.

All equipment used by the licensee in conducting the bingo game shall be owned by the licensee.

(Ord. 335 § 1(part), 1989)

5.08.091 - Financial interest.

No individual, corporation, partnership or other legal entity except the organization authorized to conduct the bingo games shall hold a financial interest in the conduct of such bingo games.

(Ord. 335 § 1(part), 1989)

5.08.092 - Keeping of profit in special fund or account.

All profits derived from a bingo game shall be kept in a special fund or account; it shall not be commingled with any other fund or account of the organization authorized to conduct the game. Such proceeds shall be used only for charitable purposes, except as provided as follows:

- A. Such proceeds may be used for prizes;
- B. A portion of such proceeds, not to exceed twenty percent of the proceeds before the deduction for prizes or one thousand dollars per month whichever is less may be used for the rental of property, overhead, including the purchase of bingo equipment, administrative

expenses, security equipment and security personnel.

- C. Such proceeds may be used to pay license fees.
- D. In the event that the monthly gross receipts from bingo games of an organization licensed under this chapter exceeds five thousand dollars, a minimum of ten percent of that month's proceeds shall be used only for charitable purposes not related to the conducting of bingo games within one year and the balance shall be used for prizes, rental of property, overhead, administrative expenses and payment of license fees. The amount of proceeds used for rental of property, overhead and administrative expenses shall not exceed twenty percent of the proceeds before the deduction of prizes or one thousand dollars per month, whichever is less.

(Ord. 335 § 1(part), 1989)

5.08.095 - Records.

Each licensee conducting a bingo game shall maintain detailed records of all proceeds, profits, expenditures, prizes, charitable donations and other expenses related to the operation of bingo. Such records shall be retained for a period of three years and as long thereafter as may be required by any state or federal law. Such records including related bank statements and accounts, shall be open for inspection at any time by the city manager or his designee or any city, state or federal official in the performance of his duties.

(Ord. 335 § 1(part), 1989)

5.08.100 - Semiannual reports.

Thirty days after June 30th and December 31st during the license period, the licensee shall file a report under the penalty of perjury with the city manager containing the following information:

- A. Any change in or additions to the information required in the application;
- B. The total amount of money received from the operation of bingo games during the previous six-month period;
- C. The total amount paid out in prizes;
- D. Detailed costs to the licensee for the operation of the bingo games during the report period;
- E. Charitable contributions made from the bingo fund during the report period;
- F. All other disbursements from the fund during the report period;
- G. Failure to timely file reports shall be grounds for suspension, revocation or nonrenewal of the license.

(Ord. 335 § 1(part), 1989)

5.08.105 - Changes and conditions during license period.

Any change during the license period in the organization of the licensee, its principal officers, staff operating or assisting in the conduction of the bingo game or the condition of the premises shall be immediately reported to the city manager who shall refer such changes to the appropriate city official who shall make an investigation thereof and, if he deems appropriate, recommends the suspension or revocation of the license or the imposition of additional conditions thereof, which suspension, revocation or additional conditions shall be appealable to the city council as provided for in this chapter.

(Ord. 335 § 1(part), 1989)

5.08.110 - Suspension or revocation.

Any license issued under this chapter shall be immediately suspended by the city manager upon his own recommendation or upon the recommendation of the city clerk, chief of police, the planning or fire department, based upon either a violation of this chapter by the licensee or its agents or the discovery of some condition which would have grounds for denial of the license during the application process. Such suspension shall result in the automatic revocation of the license fifteen days after the notice thereof unless the licensee appeals the suspension or revocation to the city council as provided for in this chapter. The suspension shall remain in effect pending a decision by the city council.

(Ord. 335 § 1(part), 1989)

5.08.115 - Renewal.

A licensee desiring to continue conducting a bingo game, shall at least sixty calendar days before the expiration of the license make application to the city for renewal. The application for renewal shall be accompanied by the same fee, proofs and information as required for a new application and shall be processed in all respects as the original application.

(Ord. 335 § 1(part), 1989)

5.08.120 - Establishment or adjustment of fees.

All fees provided for under this chapter may be established, modified, adjusted or revoked by the adoption of a resolution by the city council.

(Ord. 335 § 1(part), 1989)

5.08.125 - Enforcement.

The city manager may bring action to enjoin any violation of this chapter, or may amend or add conditions to a license, may suspend a license or revoke a license as provided for in this chapter.

(Ord. 335 § 1(part), 1989)

5.08.130 - Violation—Penalty.

- A. Except as provided for in subsection B of this section, any violation of any provision of this chapter shall be punishable as set forth in Chapter 1.12 of this code.
- B. Any person violating any provision of Section 5.08.085 shall be deemed guilty of a misdemeanor and shall be punishable by a fine not to exceed ten thousand dollars.

(Ord. 335 § 1(part), 1989)

Chapter 5.14 - LICENSING AND REGULATION OF SEXUALLY ORIENTED BUSINESSES

Sections:

5.14.010 - Prohibited uses, conduct and activities.

- A. One of the important purposes of the regulations set forth in this chapter is to discourage and to minimize the opportunity for criminal conduct. As such, nothing in this chapter shall permit or be interpreted to permit any use, conduct, and/or activity which is specifically prohibited under the following California Penal Code sections:
 - 1. Receipt of money for placement of person for purposes of cohabitation (Penal Code § 266d);
 - 2. Purchase of person for purposes of prostitution or placement of person for immoral purposes (Penal Code § 266e);
 - 3. Sale of person for immoral purposes (Penal Code § 266f);
 - 4. Pimping (Penal Code § 266h);
 - 5. Pandering (Penal Code § 266i);
 - 6. Lewd or obscene conduct (Penal Code § 314);
 - 7. Houses of ill-fame (Penal Code § 315);
 - 8. Disorderly houses which disturb the immediate neighborhood (Penal Code § 316);
 - 9. Places of prostitution (Penal Code § 317); and
 - 10. Place of prostitution; place of lewdness; place used as bathhouse permitting conduct capable of transmitting AIDS (Penal Code § 11225).

B.

Nothing in this chapter shall be interpreted to permit or permit any use, conduct, and/or activity which violates any federal, state or local law or regulation.

- C. A "sexual encounter establishment" is not a permitted use. For purposes of these regulations, a "sexual encounter establishment" means any business or commercial establishment that, as one of its important business purposes, offers, for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" when one or more persons may congregate, associate, or consort for the purpose of the exposure of "specified anatomical areas" where one of the patrons of the establishment is in a "state of nudity" or "state of semi-nudity." The definition of sexual encounter establishment shall not include an establishment where a medical practitioner, physiologist, psychiatrist or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.020 - (Reserved).

5.14.030 - Purpose and intent.

It is the purpose and intent of this chapter to regulate sexually oriented businesses to promote the health, safety, morals and general welfare of the citizens of the city and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of sexually oriented businesses within the city, thereby reducing or eliminating the adverse secondary effects from such sexually oriented businesses. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of the ordinance to condone or legitimize the distribution of obscene material.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.040 - Classifications of sexually oriented businesses.

The following uses and/or activities shall be classified as "sexually oriented businesses":

1. Adult arcades;
2. Adult bookstores;
3. Adult cabarets;
4. Adult motels;

5. Adult motion picture theaters;
6. Adult novelty stores;
7. Adult theaters;
8. Adult video stores; and
9. Nude model studios.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.050 - Definitions.

For purposes of this chapter, certain words and phrases are defined as follows:

- A. "Sexually oriented businesses" are those businesses defined as follows:
 1. "Adult arcade" means an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing by five or fewer persons, each are regularly available or used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
 2. "Adult bookstore," "adult novelty store" or "adult video store" means a commercial establishment which (1) has as a significant or substantial portion of its stock-in-trade; or (2) derives a significant or substantial portion of its revenues; or (3) devotes a significant or substantial portion of its interior floor or display space; or (4) devotes a significant or substantial portion of its business activities or employees' time, or advertising, to the sale, rental or viewing for any form of consideration, of any one or more of the following:
 - a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas";
 - b. Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities";
 - c. An establishment may have other significant or substantial business purposes that do not involve the offering for sale, rental or viewing of materials, depicting or describing "specified sexual activities" or "specified anatomical areas," and shall be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its

significant or substantial business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe "specified anatomical areas" or "specified sexual activities."

3. "Adult cabaret" means a nightclub, bar, restaurant, "bottle club," or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features: (1) persons who appear nude or in a state of nudity or semi-nude; (2) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or (3) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
4. "Adult motel" means a motel, hotel or similar commercial establishment which: (1) offers public accommodations, for any form of consideration, and which regularly provides or makes available to patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexually activities" or "specified anatomical areas" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or (2) offers a sleeping room for rent for a period of time less than ten hours; or (3) allows a tenant or occupant to rent or sub-rent the sleeping room for a time period of less than ten hours.
5. "Adult motion picture theater" means a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions depicting or describing "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.
6. "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment which, for any form or consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by exposure of "specified anatomical areas" or by "specified sexual activities."
7. "Nude model studio" means any place where a person, who appears in a state of nudity or displays "specified anatomical areas" is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.
8. "Regularly features or regularly shown" with respect to an adult cabaret, adult theater, or adult motion picture theater means at least three times within any thirty day period, or carried on as part of the business's routine scheduling of events or activities and not so infrequently as to constitute a single, rare or unusual event or occurrence.

9. "Sexual encounter establishment" means a business or commercial establishment, that as one of its important business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or the exposure of "specified anatomical areas" or activities when one or more of the persons is in a state of nudity or semi-nudity. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.
 10. "Significant" or "substantial portion" means such a percentage of its activities, space allocation, revenues, advertising, targeting, stock in trade, floor or display space, business receipts, revenues, or other business undertakings as to indicate to a reasonable person that the sexually oriented portion of the business is one of its important activities, though not necessarily its only or even primary activity; for this purpose, evidence that twenty-five percent or more of its revenues are derived from such sexually oriented activities or materials, or that twenty-five percent or more of its interior floor space or display space is devoted to such sexually oriented activities or materials, or that twenty-five percent or more of its actual stock in trade regularly displayed and immediately available for use, rental, purchase, viewing or perusal is comprised of such sexually oriented materials shall be evidence that a "significant" or "substantial portion" of the business is devoted to such uses.
- B. "Employee" means a person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.
- C. "Establishment" means and includes any of the following:
1. The opening or commencement of any such business as a new business;
 2. The conversion of an existing business, whether or not a sexually oriented business, to any of the sexually oriented businesses defined in this chapter;
 3. The addition of any of the sexually oriented businesses defined in this chapter to any other existing sexually oriented business;
 4. The relocation of any such sexually oriented business; or
 5. The substantial enlargement of any such sexually oriented business.
- D. "Nudity" or "state of nudity" means: (1) the appearance or display of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or (2) a state of dress which fails to opaquely and fully cover a human buttock, anus, male or female genitals, pubic region or areola or nipple of the female breast.
- E.

"Operator" means and includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.

- F. "Permitted" or "unpermitted premises" means any premises that requires a license and/or permit and that is classified as a sexually oriented business.
- G. "Permittee" and/or "licensee" means a person in whose name a permit and/or license to operate sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.
- H. "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.
- I. "Public building regularly frequented by children" means any building owned, leased or held by the United States, the state, the county, the city, any special district, school district, or any other agency or political subdivision of the state or the United States, which building is used as a library, community center, children's center, or any other use having special attraction to children, or which building is often visited by children for social activities unaccompanied by their parents or other adult custodians.
- J. "Public park" or "recreation area" means public land which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, open space wilderness areas, or similar public land within the city which is under the control, operation, or management of the city park and recreation authorities.
- K. "Religious institution" means any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.
- L. "Residential district" means an area zoned for single family homes, duplexes, town homes, multiple family residence, mobile home parks or subdivisions, and recreational vehicle parks.
- M. "School" means any public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.
- N. "Semi-nude" means a state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.
- O. "Sexually oriented business" means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor, sexual encounter establishment, escort agency or nude model studio.

- P. "Specified anatomical areas," as used in this chapter means and includes any of the following:
1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or
 2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- Q. "Specified sexual activities," as used in this chapter, means and includes any of the following:
1. The fondling or other intentional touching of buttocks for purpose of sexual arousal, or fondling or other intentional touching of human genitals, pubic region, anus, or female breasts;
 2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
 3. Masturbation, actual or simulated;
 4. Human genitals in a state of sexual stimulation, arousal or tumescence; and
 5. Excretory functions as part of or in connection with any of the activities set forth in subsections 1 through 4 of this subsection.
- R. "Substantial enlargement of a sexually oriented business" means an increase in the floor areas occupied by the business as the floor areas existed on the affected date of this ordinance.
- S. "Transfer of ownership or control of a sexually oriented business" means and includes any of the following:
1. The sale, lease or sublease of the business; and
 2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.060 - Permit required.

No person shall operate, maintain, manage or conduct a sexually oriented business without a valid sexually oriented business permit issued by the city for the particular type of sexually oriented business.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.070 - Application for permit.

- A. The city's designee is responsible for granting, denying, revoking, renewing, suspending, and canceling sexually oriented business permits for proposed or existing sexually oriented businesses.

- B. The city's designee shall be the city manager, or any other officer or employee designated in writing by the city manager to deal with the provisions of this chapter.
- C. An application for a permit must be made on a form provided by the city.
- D. The completed application shall contain the following information and shall be accompanied by the following documents:
 - 1. If the application is:
 - a. An individual, the individual shall state his/her legal name, any aliases, and date of birth;
 - b. A partnership, the partnership shall state its complete name, and the names of all general partners; and
 - c. A corporation, the corporation shall state its complete name, the names and capacity of all officers, directors, and the name and address of the registered corporate agent for service of process.
 - 2. If the applicant intends to operate the sexually oriented business under a name other than that on the application, he/she must state the sexually oriented business's fictitious name.
 - 3. A statement as to whether the applicant or any other individuals identified in the application, excluding any agent for service of process who is not also listed as a director officer, has had a previous permit under this chapter, or any other similar sexually oriented business ordinance of the city, denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation.
 - 4. A statement as to whether the applicant or any other individuals identified in the application, excluding any agent for service of process who is not also listed as a director or officer, has been a sole proprietor, general partner, officer, or director of a sexually oriented business that has had a previous permit under this chapter, or any other similar sexually oriented business ordinance of the city has been suspended or revoked by the city, including the name and location of the sexually oriented business for which the permit was denied, suspended, or revoked, as well as the date of denial, suspension or revocation.
 - 5. The name(s) of the responsible person(s) who will be on the premises to act as manager during the times that the business is open, or a statement that the applicant has not yet selected the manager(s).
 - 6. The classification, as defined in this chapter, of the sexually oriented business for which the applicant is seeking a permit.
 - 7. The location of the proposed sexually oriented business, including a legal description of the property, street address and telephone number(s) currently in service.
 - 8. The applicant's address.

9. A recent photograph of the application.
 10. The applicant's driver license or permit number or identification number and social security number and/or the applicant's state or federally issued tax identification number.
 11. A clearly legible sketch or diagram showing the configuration of the premises all improvements to the site, including parking, landscaping, sign configuration and location and outdoor lighting, and also including a statement of total floor space and its purpose, occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
 12. A certificate and straight-line drawing prepared within thirty days prior to application depicting the building and the portion thereof to be occupied by the sexually oriented business, and (1) the property line of any other sexually oriented business within one thousand five hundred square feet of the main primary entrance of the sexually oriented business for which a permit is requested; and (2) the property lines of any church, school, park, residential zone or use within one thousand five hundred square feet of the primary entrance of the sexually oriented business.
 13. A diagram of the off-street parking areas and premises entries of the sexually oriented business showing the location of the lighting system required pursuant to this chapter.
 14. Each individual listed on the application, excluding any agent for service of process who is not also listed as a director or officer, shall sign the application.
- E. The applicant shall be required to pay a non-refundable application fee of one hundred dollars at the time of filing an application pursuant to this chapter.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.080 - Continuing permit obligations.

- A. The fact that a person possesses other types of state or city permits and/or licenses does not exempt him/her from the requirement of obtaining a sexually oriented business permit.
- B. By applying for a permit under this chapter, the applicant shall be deemed to have consented to the provisions of this chapter and to the exercise by the city or its designee, the police chief's office, and all other city departments charged with enforcing the laws, ordinances and codes applicable in the city, of their respective responsibilities under this chapter.
- C. An operator shall promptly update, correct or supplement the information contained in the application for a sexually oriented business permit on file with the city as necessary to keep the information contained therein accurate.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.090 - Filing of the completed application.

- A. Upon receipt of a complete application property filed with the city and upon payment of the non-refundable application fee, the city or its designee shall immediately stamp the application as received on that date.
- B. If the city designee determines that the application has completed the application improperly, or otherwise deems the application to be incomplete, the city designee shall, within fifteen days of receipt of the original application, notify the applicant of such fact and, on request of the applicant, grant the applicant an extension of time fifteen days or less to submit a complete application. In addition, the applicant may request an extension of time, not to exceed fifteen days, of the time for the city designee to act on the application. The time period for granting or denying a permit shall be stayed during the period in which the applicant is granted an extension of time.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.100 - Issuance of permit.

Within thirty business days of receipt of a completed application, the city shall issue a sexually oriented business permit upon verification of the following facts:

- A. The location of the business complies with all zoning laws.
- B. The configuration of the premises, as set out in the sketch or plan, submitted with the application, does not reveal any violation of applicable health, zoning, fire and safety laws of the state of California and ordinances of the city applicable thereto, including those set out in this chapter.
- C. The applicants or individuals identified therein, excluding any agent for service of process who is not also listed as a director or officer, are not otherwise disqualified from lawful operation of a sexually oriented business pursuant to any state, county, federal or local law, including those set out in this chapter.
- D. The applicant is eighteen years of age or older.
- E. The application has provided all information required by this chapter, none of which is known to the city to be incorrect.
- F. The application or permit fees required by this chapter have been paid.
- G. Applicant has no prior conviction of sexually related convictions listed in Section 5.14.010 of this chapter.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.110 - Processing the completed application.

The city, or its designee, shall grant or deny a completed application for a sexually oriented business permit within thirty business days from the date the city receives the completed application. Upon the expiration of the thirtieth day, unless the city or its designee has given written notice to the applicant, the application shall be deemed granted and the operator shall be excused from the requirement that a duly issued permit be posted at the premises until such time as said permit is issued pursuant to this section.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.120 - Notification of permit denial—Subsequent application.

If the city, or its designee, denies the application, he/she shall notify the applicant of the denial in writing and state the reason(s) for the denial. Any subsequent application which has been supplemented to cure the grounds for prior denial shall be treated as a new application.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.130 - Annual permit fee.

The annual fee for a sexually oriented business permit is one hundred dollars, to partially offset the costs of monitoring and policing the operations of the business entities involved.

- B. The city council hereby determines that the actual cost of monitoring and policing each such business is at least that amount.
- C. Said fee shall be due yearly on the anniversary of the issuance of the permit and shall be deemed delinquent thirty days thereafter.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.140 - Inspection.

Every operator shall permit representatives of the city and/or police, fire, or health departments to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time it is occupied or open for business.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.150 - Administrative and judicial review of permit denial, suspension or revocation.

- A. Administrative Appeal to the City Council. After denial of an application or suspension or revocation of a permit, the applicant or permittee may seek prompt review of such administrative action through the city council, under the provisions of Section 5.04.200.
- B.

Expedited Review of Free Speech Claims. An administrative appeal shall be heard and decided at the next regularly scheduled city council meeting when the written request for an administrative appeal alleges that the administrative action constitutes a violation of the application or permittee's state or federal constitutional rights to free speech, press or expression. If affirmed by the city council, the administrative action is subject to prompt review by the Superior Court for the state of California, in and for the County of Tulare, pursuant to California Code of Civil Procedure Section 1094.8.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.160 - Transfer of a permit.

- A. A permittee shall not operate sexually oriented business under the authority of a permit at any place other than the address designated in the application for permit.
- B. A permittee shall not transfer his/her permit to another person unless and until such other person satisfied the following requirements:
 1. Obtains an amendment to the permit from the city or its designee, which provides that he/she is now the permittee, which amendment may be obtained only if he/she has completed and properly filed an application with the city or its designee, setting forth the information called for under Section 5.14.080 of this chapter in the application; and
 2. Pays a transfer fee of fifty percent of the annual permit fee set by this chapter.
- C. No permit may be transferred during the pendency of administrative procedures following notice by the city or its designee to the permittee that suspension or revocation proceedings have been or will be brought against the permittee, until such proceedings have been completed, withdrawn or otherwise canceled.
- D. Permittee shall not transfer a permit whether directly or indirectly in violation of this section, and any such transfer is hereby declared void, and the permit shall be considered abandoned and shall automatically revert to the city.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.165 - Registration of new employees/independent contractors.

- A. As a further condition of approval of every sexually oriented business permit issued pursuant to this chapter, every owner or operator shall register every employee or independent contractor working on its premises with the police department within five business days of the commencement of the employee's period of employment at the sexually oriented business.
- B. Each employee/independent contractor shall be required to provide two recent color passport quality photographs and shall allow himself or herself to be fingerprinted by the police department for purposes of identification. In addition, each new employee/independent contractor shall provide the following information on a form provided by the police department:

1. Name, current resident address, telephone number.
 2. Date of birth.
 3. Social Security number.
 4. Height, weight, color of eyes and hair.
 5. Stage name (if applicable) and other aliases used within the previous two years.
- C. The information provided for purposes of this section shall be maintained by the police department as confidential information, and shall not be disclosed as public records unless pursuant to an order issued by a court of competent jurisdiction.
- D. Each owner or operator of a sexually oriented business shall maintain a current register of names of all employees and independent contractors currently employed by or working at the sexually oriented business, and shall disclose such registration for inspection by any designated city representative for purposes of determining compliance with this section.
- E. Failure to register each new employee/independent contractor within five days of commencement of employment, or to maintain a current register of the names of all employees shall be deemed a violation of the conditions of the permit and may be considered grounds for suspension or revocation of the permit.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.170 - Business operations.

A. Visibility.

1. The entire interior of an adult arcade, adult bookstore, adult novelty store, adult cabaret, adult video arcade, nude model studio, and any nonconforming sexual encounter establishment and the entire concession area of an adult motion picture theater or adult theater, the entire common areas of an adult motel, and the entire exhibition area of an adult motion picture theater or adult theater, shall be visible upon entrance to such areas.
2. Visibility from the entrance shall not be obstructed by any curtain, door, wall, merchandise, rack or any other thing.
3. No partially or fully enclosed booths or partially or fully concealed booths shall be maintained within the sexually oriented business.
4. No patrons shall be permitted access to any area of the premises not visible from the entrance.
5. Customers, patrons, or visitors of adult arcades shall not be allowed to stand idly by in the vicinity of any such video booths, or from remaining in the common area of such business, other than the restrooms, who are not actively engaged in shopping for or reviewing the products available on display for purchaser viewing. Signs prohibiting loitering shall be posted

in prominent places in and near the video booths.

6. All areas of the sexually oriented business shall be illuminated at a minimum of the following foot candles, minimally maintained and evenly distributed at ground level:

<u>Area</u>	<u>Foot Candles</u>
Bookstores and other retail establishments	20
Theaters and cabarets	5 (except during performances, at which times lighting shall be at least 1.25 foot candles)
Arcades	<u>10</u>

7. All off-street parking area and premise entries of the sexually oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of five foot candles of light on the parking surface and/or walkways. The required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.

B. Exceptions of Visibility Requirements.

1. Section 5.14.170 shall not apply to those areas of a sexually oriented business to which only employees are permitted access and patrons are excluded and which cannot be viewed from any area accessible to patrons.
2. Section 5.14.170A shall not apply to a restroom; however, no restroom shall contain merchandise, materials, product or service referenced in Section 5.14.050 above.

C. Private Viewing Booths or Rooms.

1. No viewing room or booth of an adult arcade or adult video arcade may be occupied by more than one person at any time.
2. The walls or partitions between viewing rooms or booths shall be maintained in good repair at all times, with no holes between any two such rooms such as would allow viewing from one booth into another or such as to allow physical contact of any kind between the occupants of

any time such booths or rooms.

3. The floors, seats, walls and other interior portions of all viewing rooms or booths shall be maintained clean and free from waste and bodily secretions.
- D. Business Hours. Sexually oriented business shall be open for business only between the hours of nine a.m. to midnight on any particular day.
- E. Posting Permit. A valid sexually oriented business permit duly issued pursuant to this chapter shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it can be easily read at all times.
- F. Manager on Duty.
1. There shall be a responsible person, on the premises to act as manager, at all times, during which the business is open.
 2. At all times that any patron is present inside the premises, at least one manager shall be situated at a location within the premises so as to allow her/him an unobstructed view of the entire area accessible to patrons. Within those sexually oriented businesses lawfully configured to include more than one open room accessible to patrons, such as an adult theater with both a concession area and an exhibition area, or various common areas of an adult motel, sufficient additional managers shall be present as necessary to allow management personnel to maintain an unobstructed view of the entirety at all times of all areas accessible to patrons.
 3. Every permittee shall ensure that all employees are familiar with the provisions of this chapter as amended from time to time and with all regulations adopted by the city related to sexually oriented businesses.
- G. Required Physical Modification to Premises.
1. An operator of a sexually oriented business shall be permitted a reasonable period of time to make modifications to the business premises if such modifications are made necessary by the implementation of the provisions of this chapter.
 2. The reasonable period of time shall normally be thirty days from the effective date of said ordinance to file the appropriate plans and designs with the city, and up to ninety days thereafter for completion of the modifications.
 3. Should modifications be so extensive as to reasonably require a longer period of time, the city, or its designee, may grant a longer period of time for completion of such modifications, in consultation with the city's building officials.
- H. Separate Restrooms. The sexually oriented business shall provide and maintain separate restroom facilities for male patrons and employees, and female patrons and employees. Male patrons and employees shall be prohibited from using the restroom(s) for females and females patrons and employees shall be prohibited from using the restroom(s) for males, except to carry

out duties of repair, maintenance and cleaning of the restroom facilities. The restrooms shall be free from any adult material. Restrooms shall not contain television monitors or other motion picture or video projection, recording or reproduction equipment. The foregoing provisions of this paragraph shall not apply to a sexually oriented business which deals exclusively with sale or rental of adult material which is not used or consumed on the premises, such as an adult bookstore or adult video store and which does not provide restroom facilities to its patrons or the general public.

- I. No Alcohol. No alcoholic beverage shall be served or consumed on the premises of any sexually oriented business.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.180 - Prohibitions regarding minors and sexually oriented businesses.

It is unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this chapter, and knowingly, or with reasonable cause to know, permits, suffers, or allows:

- A. Admittance of a person under eighteen years of age to the business premises;
- B. A person under eighteen years of age to remain at the business premises;
- C. A person under eighteen years of age to purchase goods or services at the business premises;
- D. A person who is under eighteen years of age to work at the business premises as an employee; or
- E. The entrance to any sexually oriented business shall be designed in a manner that obscures the view of the interior of the premises from minors outside the premises so as to prohibit minors from viewing or seeing any material, conduct or activities which depict, describe or display "specified sexual activities" or "specified anatomical areas."

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.190 - Display regulations.

- A. No display or exhibit depicting or describing "specified sexual activities" or "specified anatomical areas" shall be placed in, on or at the site of the subject premises in such a manner as to be visible from the exterior of the premises.
- B. The building entrance to a sexually oriented business shall be clearly and legibly posted with a notice indicating that persons under eighteen years of age are precluded from entering the premises. The notice shall consist of letters no less than one inch in height.
- C.

The building entrance to a sexually oriented business shall be clearly and legibly posted with a notice indicating that no alcoholic beverages are to be served or consumed on the premises. The notice shall consist of letters no less than one inch in height.

- D. The building entrance to a sexually oriented business shall be clearly and legibly posted with a notice indicating business hours of operation.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.200 - Additional requirements.

The following additional requirements shall pertain to sexually oriented businesses providing live entertainment depicting specified anatomical areas or involving specified sexual activities:

- A. No person shall perform live entertainment for patrons of a sexually oriented business except upon a stage at least eighteen inches above the level of the floor which is separated by a distance of at least ten feet from the nearest area occupied by patrons, and no patrons shall be permitted within ten feet of the stage while the stage is occupied by an entertainer. "Entertainer" means any person who is an employee or independent contractor of the sexually oriented business, or any person who, with or without any compensation or other form of consideration, performs live entertainment for patrons of a sexually oriented business.
- B. The sexually oriented business shall provide separate dressing room facilities for entertainers which are exclusively dedicated to the entertainers' use.
- C. The sexually oriented business shall provide an entrance/exit for entertainers which is separate from the entrance/exit used by patrons.
- D. The sexually oriented business shall provide access for entertainers between the stage and dressing rooms which is completely separated from the patrons. If such separate access is not physically feasible, the sexually oriented business shall provide a minimum three foot wide walk aisle for entertainers, between the dressing room area and the stage, with a railing, fence, or other barrier, separating the patrons and the entertainers, capable of (and which actually results in) preventing any physical contact between patrons and entertainers.
- E. No entertainer, either before, during or after performances, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during or after performances by such entertainer. This subsection shall only apply to physical contact on the premises of the sexually oriented business.
- F. Fixed rail(s) at least thirty inches in height shall be maintained establishing the separations between entertainers and patrons required by this subsection.
- G. No patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any patron.

- H. No owner or other person with managerial control over a sexually oriented business (as that term is defined herein) shall permit any person on the premises of the sexually oriented business to engage in a live showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque coverage and/or the female breast with less than a fully opaque coverage over any part of the areola.
- I. Sexually oriented businesses featuring live entertainment shall provide at least one security guard at all times while the business is open. If the occupancy limit of the premises is greater than thirty-five persons, an additional security guard shall be on duty. Additional security guards may be required if the occupancy limit of the premises is greater than seventy persons. Security guard(s) shall be charged with preventing violations of law and enforcing compliance by patrons of the requirements of these regulations. Security guards shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public and shall be duly licensed as a security guard as required by applicable provisions of state law. No security guard required pursuant to this subsection shall act as a door person, ticket seller, ticket taker, admittance person, or sole occupant of the manager's station while acting as a security guard.
- J. The foregoing applicable requirements of this section shall be deemed conditions of sexually oriented business regulatory permit approvals, and failure to comply with every such requirement shall be grounds for revocation of the permit issued pursuant to these regulations.
- K. Every permittee of a sexually oriented business which provides live entertainment depicting specified anatomical areas or involving specified sexual activities must maintain a register of all persons so performing on the premises. Such register shall be available for inspection during regular business hours by any designee by the city of Farmersville.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.210 - Exemptions.

- A. It is a defense to prosecution for any violation of this chapter that a person appearing in a state of nudity did so in a modeling class operated:
 - 1. By a college, junior college, or university supported entirely or partly by taxation;
 - 2. By a private college or university which maintains and operates educational programs in which credits are transferable to a collage, junior college, or university supported entirely or partly by taxation; or
 - 3. In a structure:
 - a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;

- b. Where, in order to participate in a class, a student must enroll at least three days in advance of the class; and
 - c. Where no more than one nude model is on the premises at any one time.
- B. It is a defense to prosecution for a violation of this chapter that an employee of a sexually oriented business, regardless of whether or not it is permitted under this chapter, exposed any specified anatomical area during the employee's bona fide use of a restroom, or during the employee's bona fide use of a dressing room which is accessible only to employees.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.220 - Criminal penalties and additional legal, equitable and injunctive relief.

- A. If any person fails or refuses to obey or comply with or violates any of the provisions of this chapter, such person, upon conviction of such offense, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed five hundred dollars or by imprisonment not to exceed sixty days in the jail, or both, in the discretion of the court. Each violation or noncompliance shall be considered a separate and distinct offense. Further, each day of continued violation or noncompliance shall be considered as a separate offense.
- B. Nothing contained in this chapter shall prevent or restrict the city from taking other lawful action as is necessary to prevent or remedy any violation or noncompliance. Other lawful actions shall include, but shall not be limited to, a nuisance abatement proceeding pursuant to the Farmersville Municipal Code, a civil nuisance abatement or equitable action for injunctive relief or an action at law for damages in any court of competent jurisdiction.
- C. All remedies and penalties provided for in this chapter shall be cumulative and independently available to the city, and the city shall be authorized to pursue any and all remedies set forth in this section, to the full extent allowed by law.
- D. The city shall be entitled to recover all attorneys' fees and costs incurred in the filing or prosecution of any action or administrative proceeding brought to enforce any provision(s) of this chapter.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.230 - Suspension or revocation of permit.

- A. After an investigation, notice and hearing, the city manager or his designee shall suspend or revoke an existing permit, or impose such conditions upon the retention of the permit as shall be found to be necessary to assure the preservation of the public health and safety, if the evidence presented established that one of the following conditions exist:
 - 1.

The building, structure, equipment, location or manner of operation of such business does not comply with the requirements of or fails to meet the standards of the health, zoning, fire and safety laws of the state of California and ordinances of the city of Farmersville applicable to such business operations.

2. The permittee, his or her employee, agent, partner, director, officer, stockholder or manager has knowingly made any false, misleading or fraudulent statements of material fact in the application for sexually oriented business permit, or in any report or record required to be filed with the city pertaining to the permit for the sexually oriented business, or has violated any rule or regulation duly adopted by the city relating to sexually oriented businesses, including those set out in this chapter.
 3. A court of competent jurisdiction has found that the permittee, his or her employee, agent, partner, director, manager, or stockholder has knowingly engaged in, allowed, or permitted to be committed any unlawful act of sexual intercourse, sodomy, oral copulation, masturbation, or distribution of obscenity, on or in the subject premises.
 4. A court of competent jurisdiction has found that the permittee, his or her employee, agent, partner, director, manager, or stockholder has knowingly engaged in, or permitted, or allowed to occur unlawful solicitations for sexual intercourse, sodomy, oral copulation, masturbation or distribution of obscenity, on or in the subject premises.
 5. A court of competent jurisdiction has found that the permittee, his or her employee, agent, partner, director, manager, or stockholder has knowingly engaged in or permitted or allowed, in or on the premises, the unlawful possession, use or sale of a controlled substance, as defined by the California Uniform Controlled Substances Act, California Health & Safety Code § 11000 et seq., as amended from time to time.
 6. More than thirty days have elapsed since a tax, fee, fine any form of regulatory assessment or judgment for monetary damages, irrespective of any other form of relief set out in the judgment, which is to be paid to the city has been imposed against a sexually oriented business, and said sum remains owing.
- B. In the event that a permit for a sexually oriented business is revoked pursuant to any applicable law, the premises shall be closed and shall not be used as a sexually oriented business of any classification for a period of one year commencing on the date of revocation. Further, the operators of the sexually oriented business so closed shall be disqualified from operating any other sexually oriented business established thereafter within the city for a period of one year commencing on the date that the permit was revoked.
- C. In the event that a permit for a sexually oriented business is suspended pursuant to any applicable law, the operators of the subject sexually oriented business shall be disqualified from operating the subject sexually oriented business, as well as any other sexually oriented business established thereafter, within the city during the entire period of such suspension.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.240 - Immunity from prosecution.

The city and its designee, the chief of police's office and all other departments and agencies, and all other city officers, agents and employees, charged with enforcement of state and local laws and codes shall be immune from prosecution, civil or criminal for reasonable, good-faith trespass upon a sexually oriented business while acting within the scope of authority conferred by this chapter.

(Ord. 398 § 1 Exh. A (part), 2002)

5.14.250 - Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

(Ord. 398 § 1 Exh. A (part), 2002)

Chapter 5.16 - YARD SALES

Sections:

5.16.010 - Compliance with chapter required.

No sale shall be made in a residential zone of any personal property, excepting property owned or maintained on the premises occupied by the seller or members of his immediate family or of his household, and any such sale shall be in compliance with this chapter.

(Ord. 163 § 1, 1977)

5.16.020 - Permit—Required.

No sale of any such property shall be made until a permit has been issued by the city, and no permit shall be issued until an occupant of such a dwelling has signed a document prepared by the city to the effect that all of said personal property to be sold is owned by him and/or other members of his immediate family or of

his household, and that none of the property has been acquired or consigned for the purpose of having the same sold.

(Ord. 163 § 3, 1977)

5.16.030 - Establishment or adjustment of fees.

All fees provided for under this chapter may be established, modified, adjusted or revoked by the adoption of a resolution by the city council.

(Ord. 321 § 4, 1987: Ord. 205 § 1, 1978: Ord. 163 § 4, 1977)

5.16.040 - Display in front yard prohibited.

Personal property offered for sale shall not be displayed in a front yard except on those days authorized pursuant to a city permit as provided for in this chapter or as provided for in Section 5.16.070 of this chapter.

(Ord. 321 § 7, 1987: Ord. 163 § 2, 1977)

5.16.050 - Limitations on number of sales and duration of sale.

Four sales per year and per location shall be allowed, and no sale shall last for more than three days, except that nonprofit, charitable organizations shall not be subject to the provisions of this section.

(Ord. 205 § 2, 1978: Ord. 193 § 1, 1977: Ord. 163 § 5, 1977)

5.16.060 - Signage restrictions.

No sign shall be posted advertising such a sale excepting one sign on the property on which the sale is to take place, and on other such private property where written permission has been granted by the property owner. Such signs shall be removed from the properties within six hours following the close of the sale.

(Ord. 344 § 1, 1990: Ord. 163 § 6, 1977)

5.16.070 - Nonapplicability.

Nothing contained in this chapter shall apply to the display in a driveway, backyard or side yard of any of the following property owned and offered for sale by the occupant of residential property or a member of his household:

- A. Bicycle;
- B. Motorcycle;
- C. Motor bicycle;

- D. Automobile;
- E. Electric cart;
- F. Any other licensed motor vehicle;
- G. Rowboat;
- H. Motorboat;
- I. Trailer;
- J. Mobile home.

(Ord. 163 § 7, 1977)

5.16.080 - Violation—Penalty.

Any person who violates the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction shall be punishable as set out in Chapter 1.12 of this code.

(Ord. 302 § 12, 1986; Ord. 163 § 8, 1977)

Chapter 5.18 - MASSAGE BUSINESSES

Sections:

5.18.010 - Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, the following words or phrases used in this chapter are defined as follows:

- A. "CAMTC" means the California Massage Therapy Council created pursuant to Section 4600.5 of the California Business and Professions Code.
- B. "Massage" means to apply any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, or stimulating the external parts of the human body with the hands or other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliance, or with or without supplementary aids, such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments or other similar preparations commonly used in this practice.
- C. "Massage establishment" shall mean any fixed location where any person is given a massage in exchange for any gratuity or consideration.
- D. "Massage therapist" and "massage practitioner" shall mean person who has obtained a certificate from the CAMTC pursuant to Chapter 10.5 of Division 2 of the California Business and Professions Code (commencing with Section 4601).

- E. "Operator" means any person who supervises, manages, directs, organizes, controls or in any other way is responsible for or in charge of the overall operation, conduct or activities of a business that provides massage services.
- F. "Owner" means any of the following:
 - 1. The sole proprietor of a massage business;
 - 2. Any general or limited partner of a partnership that owns and operates a business that provides massage services; or
 - 3. Any individual person who has an ownership interest in a firm, association, partnership, corporation, limited liability company, joint venture that owns a business that provides massage services.
- G. "Person" shall mean any natural individual, firm, association, partnership, corporation, limited liability company, joint venture, or combination of individuals.
- H. "Sole proprietor" means is a business where the owner is the only person employed by that business to provide massage services.

(Ord. No. 457-A, § 2, 11-26-2012)

5.18.020 - General business license required.

- A. It shall be unlawful for any person to engage in, conduct, or carry on, or permit to be engaged in, conducted, or carried on, any commercial or business activity in which a massage service is provided within the limits of the City of Farmersville without having a valid business license issued under Chapter 5.04 of this Code, which said chapter shall be fully applicable except to any extent expressly indicated otherwise in this chapter.
- B. Notwithstanding any other provision in the Farmersville Municipal Code, a business license issued to, or sought by, a business which provides massage services within the City of Farmersville shall be invalid, or subject to denial, unless all of its personnel who provide massage services and all of its operators and owners have a valid massage therapist or massage practitioner certificate issued by the CAMTC under Chapter 10.5 of Division 2 of the California Business and Professions Code (commencing with Section 4601).
- C. Unless otherwise prohibited by state or federal law, every person applying for a business license for a business that will provide massage services must pay for and complete a LiveScan or comparable background check and provide the results thereof to the city in connection with their application for an initial business license. Such applicant must also verify their identity by presenting an unexpired identification card or driver's license issued by any U.S. state or the federal government.
- D.

Notwithstanding any other provision in Chapter 5.04 of this Code, in lieu of the city clerk, the city manager or her/his designee shall be responsible for accepting, processing, issuing, denying and revoking any business license or business license application of any person or business that provides massage services.

(Ord. No. 457-A, § 2, 11-26-2012)

5.18.030 - Exemption from license requirement.

- A. Except to the extent expressly stated otherwise, the provisions of this chapter shall not apply, to the following classes of individuals or businesses while engaged in the performance of their duties only if sufficient documentation verifying exempt status is furnished to the city manager or her/his designee:
1. Employees of state-licensed hospitals, nursing homes, sanatoriums and other state-permitted health care facilities while working in those facilities;
 2. Individuals holding a valid permit or license to practice the healing arts under the laws of the State of California, including, but not limited to, physicians, surgeons, chiropractors, osteopaths, naturopaths, podiatrists, acupuncturists, physical therapists, registered nurses and licensed vocational nurses;
 3. Barbers, cosmetologists, estheticians and manicurists who are duly licensed under the laws of the State of California while providing a massage service within the scope of such licenses, only if the massage is limited to the neck, face, scalp, feet or lower extremities below the knees and elbows of the consumer and this exemption shall not apply to full body work or full body massage;
 4. Any school of massage approved by the CAMTC and the students thereof while formally in training, only if the students provide a massage service only under the direct personal supervision of an instructor who is physically onsite;
 5. Accredited colleges and universities whose coaches and trainers are acting within the scope of their employment; and
 6. Trainers of amateur, semi-professional or professional athletes or athletic teams while engaging in their training responsibilities for and with athletes or during competition in a specific event.

(Ord. No. 457-A, § 2, 11-26-2012)

5.18.040 - Responsibilities of massage businesses.

- A. For the purpose of enforcing the requirements of this chapter, and in accordance with Section 4612(c), the owners and operators of a massage business within the City of Farmersville shall be fully responsible for the conduct of all of its employees and independent contractors working on its premises.

- B. If any owner, operator, employee or independent contractor of a massage business violates any provision of the Farmersville Municipal Code or any state or federal law while on the premises of said massage business, the business license of said massage business may be suspended, revoked or restricted pursuant to the procedures set forth in Section 5.04.200. In addition, the City of Farmersville shall report all violations to the CAMTC.
- C. The city manager, or her/his designee, may deny, refuse to renew, suspend or revoke any business license required by this section where the applicant or licensee has:
1. Failed to provide a fully completed application for a business license;
 2. Provided materially false information on an application for a business license;
 3. Failed to pay to the city the required business license application fee;
 4. Violated any provision of Chapter 10.5 of Division 2 of the California Business and Professions Code;
 5. Committing any act punishable as a sexually-related crime on the premises where massage services are provided;
 6. Been convicted of any felony, misdemeanor, infraction or municipal code violation, or liability in an administrative or civil action, that is substantially related to the qualifications, functions or duties of a certified massage therapist or practitioner; or
 7. Violated any ordinance of the City of Farmersville on the premises where a massage service was provided by a certified massage therapist or practitioner.

(Ord. No. 457-A, § 2, 11-26-2012)

5.18.050 - Operating requirements for massage businesses.

- A. Massage services for any form of compensation are prohibited beyond those business hours which are generally applicable to all businesses under Title 17 of the Farmersville Municipal Code, including, but not limited to, Sections 17.44.050(F) and 17.48.050(G), to the extent applicable.
- B. Whenever a tub or shower, toilet, or a washbasin is provided for customer use, hot and cold running water under pressure must be provided to all washbasins, tubs, showers and similar equipment. Each washbasin must be provided with soap or detergent and sanitary towels must be placed in permanently installed dispensers. A trash receptacle must be provided in each toilet room.
- C. All walls, ceilings, floors, pools, showers, tubs, wet and dry heat rooms, steam and vapor rooms, tables, and all other physical facilities must be in good repair and maintained in a clean and sanitary condition.
- D. Clean and sanitary towels, sheets, and linens must be provided for each customer receiving massage services and after each use must be replaced with some that are unused. Heavy white paper may be substituted for sheets provided such paper is only used once for each customer

then discarded.

- E. Separate closed cabinets or containers must be provided for the storage of clean and soiled linen and must be plainly marked, "Clean Linen" and "Soiled Linen."
- F. Disinfecting agents and sterilizing equipment must be provided for, and used on, any instrument used to perform any massage.
- G. Pads on massage tables must be covered in a workmanlike manner with durable, washable plastic or other waterproof material.
- H. Each room where massage services are conducted must be illuminated by a minimum of one forty-watt white light bulb with translucent or transparent covering.
- I. At all times while providing a massage service at a massage establishment, it shall be unlawful for any person, including any massage therapist or practitioner, to be other than fully clothed in non-transparent clothing that shall not expose their genitals, pubic area, buttocks or chest to any other person who is present and it shall also be unlawful for any operator of a massage business to fail to prevent such unlawful activity.
- J. A separate locker must be provided for each customer receiving massage services and must be available at no extra charge. The locker must be capable of being locked.
- K. The city shall inspect each massage establishment a minimum of one time each calendar year.
- L. Massage establishments shall be subject to inspection by the city during the business hours when massage services are being offered or provided.
- M. Every massage establishment must report immediately to the city manager, or her/his designee, all changes of address, management or ownership interest in the business.
- N. Massage services may only be provided on premises for which an appropriate land-use permit has been obtained and in accordance with all applicable zoning requirements.

(Ord. No. 457-A, § 2, 11-26-2012)

5.18.060 - Appeal and hearing upon denial, refusal to renew, suspension, or revocation of licenses.

The appeal of any denial, refusal to renew, suspension or revocation of a business license of any business that provides massage services shall be govern by Section 5.04.200 of this Code.

(Ord. No. 457-A, § 2, 11-26-2012)

5.18.070 - Business premises inspections and proof of identity.

- A. This section is enacted, in part, pursuant to Business and Professions Code Sections 4603.7, 4612(a)(3), (b) and (e) and shall apply to persons validly certified as a massage therapist or practitioner by the California Massage Therapy Council.

B.

Every massage therapist or practitioner who conducts business, utilizing their certificate issued by the California Massage Therapy Council, within the City of Farmersville must file with the city clerk a certified copy of said certificate prior to conducting such business.

- C. Every massage therapist or practitioner must maintain on its business premises evidence for review by the City of Farmersville that demonstrates that all persons providing massage services are certified by the California Massage Therapy Council.
- D. Officers of the City of Farmersville's police department, code enforcement unit and fire department shall have the right to conduct reasonable inspections of the premises where massage services are rendered, during regular business hours, to ensure compliance with Chapter 10.5 of Division 2 of the California Business and Professions Code, local ordinances and applicable fire and health and safety requirements.

(Ord. No. 457-A, § 2, 11-26-2012)

5.18.080 - Abatement of nuisance.

Any massage business operated, conducted or maintained contrary to any provision of this chapter is hereby declared to be unlawful and a public nuisance and, in addition to any other enforcement remedy provided in this chapter, the city attorney may commence an action or proceeding for the abatement thereof.

(Ord. No. 457-A, § 2, 11-26-2012)

5.18.090 - Violation—Penalty.

- A. Except as provided in subsection (b) of this section, violation of any provision of this chapter shall be punishable as set forth in Chapter 1.12 of this Code.
- B. Any person violating any provision of this chapter, when such violation constitutes third or greater number of violations of any provision of this chapter within the preceding twelve-month period, shall be guilty of a misdemeanor and shall be punishable by fine not to exceed one thousand dollars, or imprisoned not more than six months in county jail, or both such fine and imprisonment.

(Ord. No. 457-A, § 2, 11-26-2012)

Chapter 5.20 - PUBLIC DANCES

Sections:

5.20.010 - Definitions.

For the purposes of this chapter, the words set out in this section shall have the following meanings:

- A. "Alcoholic beverage" means and includes alcohol spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half percent, or more, of alcohol by volume and which is fit for beverage purposes, either alone or when diluted, mixed, or combined with other substances.
- B. "Cabaret" means a public dancehall in or on which a certain floor area has been set aside for or is permitted to be used for the pastime of dancing, and in conjunction with which a valid license issued by the state is in effect permitting the dispensing of alcoholic beverages.
- C. "Dancing club" means any club or association of persons which conducts dances, other than public dances, for its members or bona fide guests.
- D. "Dancing school" means any school, class or classes wherein dancing is the principal subject taught.
- E. "Private dance" means a gathering of persons in or upon any premises where dancing is permitted either as the main purpose for such gathering or as an incident to some other purpose and to which premises only club members, pupils or members of a particular dancing school or dancing club, and the bona fide guests of such club or school are admitted.
- F. "Public dance" means a gathering of persons in or upon any premises where dancing is permitted either as the main purpose for such gathering or as an incident to some other purpose, and to which premises the public is invited.
- G. "Public dancing place" means a place where dancing is permitted, whether for profit or not for profit, and to which the public is admitted either with or without charge, or at which the public is allowed to participate in the dancing, either with or without charge.

(Ord. 14 § 1, 1961)

5.20.020 - Permit and license—Required.

- A. No person(s), dancing club or dancing school shall conduct, permit, operate, or assist in conducting or operating any public dance unless and until a written permit has been obtained from the chief of police and a license obtained from the city clerk.
- B. No permit or license shall be issued for a public dance where any alcoholic beverages are sold unless the place is a bona fide public eating place, or a cabaret, in which a valid license issued by the state is in effect permitting the dispensing of alcoholic beverages.
- C. This section shall not apply to any person(s) or organization conducting a public dance in connection with a dinner when any alcoholic beverage is served by a caterer licensed to serve such alcoholic beverages.

(Ord. 14 § 2(A), 1961)

5.20.030 - Permit and license—Exemptions.

- A. No permit or license shall be required for any dance conducted by school authorities or by the recreation and parks department of the city when such dance is conducted on property owned by such school system or the city.
- B. No permit or license shall be required for any public dance conducted by a bona fide fraternal organization, veterans organization, or other service or civic organization provided such dance is conducted on property owned by the organization conducting such dance.
- C. No permit or license shall be required for any private dance, dancing club or dancing school as defined in this chapter except that dancing clubs and dancing schools shall pay the license fee prescribed by the licensing ordinance of the city for such businesses.
- D. Any public dance conducted by any organization named in subsections A and B of this section on property not owned by such organization shall be exempt from the licensing provisions of this chapter.
- E. Any public dance conducted by a bona fide local organization where the entire proceeds of such dance are used for a charitable cause or are donated to a charitable organization, shall be exempt from the licensing provisions of this chapter.
- F. The city clerk shall conduct an investigation necessary to determine if any proposed dance meets the requirements specified in this chapter. He shall be the sole judge as to the authenticity of such charity dance.

(Ord. 14 § 2(B), 1961)

5.20.040 - Permit and license—Application.

Every person desiring a permit and license pursuant to this chapter shall file an application with the chief of police at least forty-eight hours prior to the date of such dance upon a form to be provided by said chief of police, and shall pay any required license fee to the city clerk.

(Ord. 14 § 2(D), 1961)

5.20.050 - Permit and license—Issuance of permit.

No permit shall be issued by the chief of police except upon a reasonable showing satisfactory to him, that the facilities proposed to be utilized are suitable for such purpose, that the sponsors or applicants are of good moral character and reputation, that the requirements of this chapter and of all other applicable ordinances of the city and the conditions of the permit will be observed, and that the issuance of the permit will not be contrary to the public interest.

(Ord. 14 § 2(F), 1961)

5.20.060 - Permit and license—License fees.

- A. For every person or organization except as excluded by this chapter carrying on a single public dance, the fee shall be five dollars per day or as provided for through the adoption of a resolution;
- B. For every person or organization carrying on a public dance connected with a bona fide eating place, or cabaret, the fee shall be ten dollars per quarter or as provided for through the adoption of a resolution, in addition to other required business licenses.
- C. All fees provided for under this chapter may be modified, adjusted or revoked by the adoption of a resolution.

(Ord. 294 § 4, 1985; Ord. 279 § 4, 1984; Ord. 14 § 2(E), 1961)

5.20.070 - Permit and license—Revocation.

- A. In the event any person(s) holding a permit under this chapter violates any of the provisions of this chapter, or permits or allows any illegal, improper or disorderly conduct in any public dancing place, the chief of police or his duly authorized representative may immediately revoke such permit.
- B. If a petition for a protest hearing is filed in writing with the city clerk within seventy-two hours of such revocation, the person(s) filing such petition shall be heard by the city council at their next succeeding regular meeting. The council may at such meeting sustain or deny the protest. Any decision of the county shall be final.

(Ord. 14 § 2(C), 1961)

5.20.080 - Regulations.

- A. No person conducting any public dance or any public dancing place shall permit or allow any intoxicated, boisterous or disorderly person to enter, be, remain, or dance therein.
- B. Alcoholic beverage shall not be sold, consumed, or otherwise used in or upon the premises of any public dancing place, unless such public dancing place is a licensed cabaret.
- C. No person shall shut or turn off or reduce the intensity of the lighting in the area used for dancing to such an extent so to provide less lighting or illumination than is customary for rooms or areas of like dimensions or to a degree which makes it difficult or impossible to clearly see or identify individuals dancing on the floors provided therefor.
- D. All parking areas used in conjunction with a public dancing place must be sufficiently well-lighted to enable one to clearly see or identify individuals.

- E. No person shall permit any person to dance or permit any music to be played between the hours of two a.m. and nine a.m. on any day, or permit any dancing between the hours of two a.m. of any Sunday and nine a.m. of the next succeeding day.
- F. No person shall permit or allow any minor under the age of sixteen to enter, be, or dance in any public dancing place. No parent or guardian of a minor under sixteen years of age, or the proprietor or person in charge of any public dance, shall permit any such minor person to enter, be, or dance in any public dancing place; provided, that nothing in this chapter shall be construed to prevent a minor person under the age of sixteen years from being in a bona fide hotel, cafe or other place where meals are regularly served, and where a public dance is being held, in the event that such minor does not participate in the dancing therein; provided further, that nothing in this section shall apply to private dances or dances conducted by dancing clubs or dancing schools as defined in this chapter, or dances conducted by the school systems or the recreation and parks department of the city.
- G. At every public dance licensed under this chapter having less than seventy-five persons present, there shall be at least one uniformed special officer in attendance.

At every public dance licensed under this chapter having more than seventy-five persons present, there shall be at least two uniformed special police officers in attendance.

These special police officers must be in attendance during the entire time such dance is in progress and they shall devote their entire time and attention to keeping order and seeing that all provisions of this chapter are complied with.

The cost of supplying such special officers shall be borne by the person(s) conducting such dance.

- H. Every permit obtained under this chapter shall be posted in a conspicuous place on the premises where the public dance for which such permit is issued is conducted, and shall remain so posted during all the time dancing is taking place.

(Ord. 17 § 1, 1961; Ord. 14 § 3, 1961)

5.20.090 - Violation—Penalty.

Any person who violates any of the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof shall be punishable as set out in Chapter 1.12 of this code.

(Ord. 14 § 4, 1961)

Chapter 5.24 - SOLICITORS

Sections:

5.24.010 - Definition.

A "canvasser" or "solicitor" is defined as any individual whether resident of the city or not, traveling either by foot, automobile, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not; provided, that such definition shall include any person who for himself or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, room, shop or any other place within the city for the principal purpose of exhibiting samples and taking orders for future delivery.

(Ord. 40 § 1, 1963)

5.24.020 - License—Required.

It is unlawful for any solicitor or canvasser as defined in this chapter to engage in such business within the corporate limits of the city without first obtaining a license therefor in compliance with the provisions of this chapter.

(Ord. 40 § 2, 1963)

5.24.030 - License—Application—Information required.

- A. Applicants for license under this chapter must file with the city clerk a sworn application in writing (in duplicate) on a form to be furnished by the city clerk, which shall give the following information:
1. Name and description of the applicant;
 2. Permanent home address and full local address of the applicant;
 3. A brief description of the nature of the business and the goods to be sold;
 4. If employed, the name and address of the employer, together with credentials establishing the exact relationship;
 5. The length of time for which the right to do business is desired;
 6. The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery.
 7. A photograph of the applicant, taken within sixty days immediately prior to the date of filing of the application, showing the head and shoulders of the applicant in a clear and distinguishing manner.

8. The fingerprints of the applicant and the names of at least two reliable property owners of the county, who will certify as to the applicant's good moral character and business respectability, or, in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigation to properly evaluate such character and business responsibility.
 9. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.
- B. Adjustment of Fees. All fees provided for in this chapter may be established, adjusted, modified, amended or revoked by resolution of the city council.

(Ord. 328 § 1, 1988; Ord. 40 § 3, 1963)

5.24.040 - License—Application—Investigation and issuance.

- A. Upon receipt of such application, the original shall be referred to the chief of police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the public good, and if possible complete the same within thirty days.
- B. If as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the chief of police shall endorse on such application his disapproval and his reasons for the same, and return the said application to the city clerk, who shall notify the applicant that his application is disapproved and that no license will be issued.
- C. If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the chief of police shall endorse on the application his approval, and return said application to the city clerk who shall, upon payment of the prescribed license fee, deliver to the applicant a license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such soliciting or canvassing. The clerk shall keep a permanent record of all licenses issued.

(Ord. 40 § 4, 1963)

5.24.050 - Establishment or adjustment of fees.

All fees provided for under this chapter may be established, modified, adjusted or revoked by the adoption of a resolution by the city council.

(Ord. 321 § 5, 1987; Ord. 40 § 5, 1963)

5.24.060 - License—Revocation.

- A. Permits and licenses issued under the provisions of this chapter may be revoked by the council of the city after notice and hearing for any of the following causes:
1. Fraud, misrepresentation, or false statement contained in the application for license;
 2. Fraud, misrepresentation or false statement made in the course of carrying on his business as solicitor or as canvasser;
 3. Any violation of this chapter;
 4. Conviction of any crime or misdemeanor involving moral turpitude; or
 5. Conducting the business of soliciting or of canvassing in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- B. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for hearing.

(Ord. 40 § 11, 1963)

5.24.070 - License—Exhibition.

Solicitors and canvassers are required to exhibit their licenses at the request of any citizen.

(Ord. 40 § 8, 1963)

5.24.080 - License—Expiration.

All annual licenses issued under the provisions of this chapter shall expire on the thirty-first day of December in the year when issued. Other than annual licenses shall expire on the date specified in the license.

(Ord. 40 § 13, 1963)

5.24.090 - Bond.

- A. Every applicant not a resident of the county shall file with the city clerk a surety bond, running to the city in the amount of one thousand dollars, with surety acceptable to and approved by the mayor, conditioned that the said applicant shall comply fully with all the provisions of the ordinances of the city, and the statutes of the state regulating and concerning the business of solicitors and guaranteeing to any citizen of the city that all money paid as a down payment will

be accounted for and applied according to the representations of the solicitor, and further guaranteeing to any citizen of the city doing business with said solicitor that the property purchased will be delivered according to the representations of said solicitor.

- B. Action on such bond may be brought in the name of the city to the use or benefit of the aggrieved person, or such action may be brought by the aggrieved person.

(Ord. 40 § 6, 1963)

5.24.100 - Badges.

The city clerk shall issue to each licensee at the time of delivery of his license a badge which shall contain the words "Licensed Solicitor," the period for which the license is issued and the number of the license, in letters and figures easily discernible from a distance of ten feet. Such badge shall, during the time such licensee is engaged in soliciting, be worn constantly by the licensee on the front of his outer garment in such a way as to be conspicuous.

(Ord. 40 § 7, 1963)

5.24.110 - Records.

The chief of police shall report to the city clerk all convictions for violation of this chapter and the city clerk shall maintain a record of each license issued and record the reports of violations therein.

(Ord. 40 § 10, 1963)

5.24.120 - Appeal.

- A. Any person aggrieved by the action of the chief of police or the city clerk in the denial of a permit or license as provided in this chapter shall have the right of appeal to the county of the city.
- B. Such appeal shall be taken by filing with the council within fourteen days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal.
- C. The council shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in this chapter for notice of hearing on revocation.
- D. The decision and order of the council on such appeal shall be final and conclusive.

(Ord. 40 § 12, 1963)

5.24.130 - Exemption.

The city clerk and the chief of police shall each have discretion to waive any of the provisions of this chapter in the case of any canvasser or solicitor representing any organization now or hereafter listed in the United States Revenue Code as an organization gifts to which are exempt from taxation.

(Ord. 40 § 14, 1963)

5.24.140 - Enforcement.

It shall be the duty of any police officer of the city to require any person seen soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his solicitor's or canvasser's license and to enforce the provisions of this chapter against any person found to be violating the same.

(Ord. 40 § 9, 1963)

5.24.150 - Violation—Penalty.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable as set out in Chapter 1.12 of this code.

(Ord. 302 § 15, 1986; Ord. 40 § 15, 1963)

Chapter 5.30 - COMMERCIAL CANNABIS BUSINESS TAX

5.30.010 - Short title.

This chapter shall be known as the City of Farmersville Cannabis Business Tax. The City of Farmersville hereinafter shall be called "city." This chapter shall be applicable within the incorporated territory of the city.

(Ord. No. 484, § 1, 7-24-2017)

5.30.020 - Operative date.

"Operative date" refers to the first day of the first calendar quarter commencing more than one hundred ten days after the adoption of this chapter.

(Ord. No. 484, § 1, 7-24-2017)

5.30.030 - Definitions.

- A. "Business" shall include all activities engaged in or caused to be engaged in within the incorporated area of the city, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall

not include the services rendered by an employee to his or her employer.

- B. "Cannabis" means all parts of the plant *cannabis sativa* *linnaeus* *cannabis indica*, or *cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For purposes of this section, "Cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code. Cannabis is classified as an agricultural product separately from other agricultural crops.
- C. "Cannabis cultivation area" means the total aggregate area(s) of cannabis cultivation by a cannabis business as measured around the outermost perimeter of each separate and discrete area of cannabis cultivation at the dripline of the canopy expected at maturity and includes, but is not limited to, the space between plants within the cultivation area, the exterior dimensions of garden beds, garden plots, hoop houses, green houses, and each room or area where cannabis plants are grown, excluding non-production areas, as determined by the community development director or his or her designee.
- D. "Cannabis nursery" means a person who produces cannabis clones, immature plants, and/or seeds for wholesale distribution, used specifically for the planting, propagation, and cultivation of cannabis. In addition, and without limiting the foregoing, "nursery" includes "nursery" as defined in California Business and Professions Code Section 19300.5 and any successor statute, as may be adopted or amended from time to time.
- E. "Canopy" means all areas occupied by any portion of a cannabis plant, inclusive of all vertical plants, whether the areas are contiguous or noncontiguous. The plant canopy need not be contained to a single parcel of land in determining the total square footage that will be subject to the tax under this chapter. If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.
- F. "City" means the City of Farmersville.
- G. "City council" means the city council of the City of Farmersville.
- H. "City permit" means any permit issued by the city to a person to authorize that person to operate or engage in a commercial cannabis business.
- I. "Cannabis product" means any product containing cannabis, including, but not limited to, flowers, buds, oils, tinctures, concentrates, extractions, edibles and those products described in Section 11018.1 of the Health and Safety Code.
- J. "Cannabis production" means the processes associated with the processing, extraction, manufacturing, testing, distribution and transportation of medical and non-medical cannabis products.

- K. "Collector" means the city clerk, or other city official charged by the city manager with the administration of the provisions of this chapter.
- L. "Commercial cannabis business" means any commercial business activity relating to cannabis, including but not limited to cultivating, transporting, distributing, manufacturing, compounding, converting processing, preparing, storing, packaging, delivering, and selling (wholesale and/or retail sales) of cannabis and any ancillary products and accessories in the city, whether or not carried on for gain or profit.
- M. "Cannabis business tax," "business tax," "cannabis tax" or "cannabis industry tax" means the tax due pursuant to this chapter for engaging in commercial cannabis businesses.
- N. "Commercial cannabis cultivation" means cultivation conducted by, for, or as part of a commercial cannabis cultivation business.
- O. "County" shall mean Tulare, within sphere of influence of the city.
- P. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of Cannabis.
- Q. "Delivery" means the commercial transfer of cannabis or cannabis products from a Commercial Cannabis Business.
- R. "Distributor" or "distribution" or "distribution facility" means a person involved in the procurement, sale, and/or transport of cannabis and cannabis products between two or more cannabis businesses.
- S. "Employee" means each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, associate, agent, manager, or solicitor, and each and every other person employed or working in such business for a wage, salary, commission, barter or any other form of compensation.
- T. "Engaged in business" means the commencing, conducting, operating, managing, or carrying on of a commercial cannabis business and the exercise of corporate or franchise powers, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise.
- U. "Fiscal year" means July 1 through 30 of the following calendar year.
- V. "Gross receipts" means the total amount or compensation received or receivable from all sales; the total amount or compensation actually received or receivable for the performance of any act or service, or whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends and gains realized from trading in stocks or bonds, however designated. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, without any deduction therefrom

an account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:

1. Cash discounts where allowed and taken on sales;
2. Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as gross receipts;
3. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
4. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
5. Receipts from investments where the holder of the investment received only interest and/or dividends, royalties, annuities and gains from the sale or exchange of stock or securities solely for a person's own account, not derived in the ordinary course of a business;
6. Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;
7. Cash value of sales, trades or transactions between departments or units of the sale business;
8. Wherever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the period when they are recovered;
9. Transactions between a partnership and its partners;
10. Receipts from services or sales in transactions between affiliated corporations. An affiliated corporation is a corporation:
 - a. The voting and non-voting stock of which is owned at least eighty percent of such other corporation with which such transaction is had;
 - b. Which owns at least eighty percent of the voting and non-voting stock of such other corporation; or
 - c. At least eighty percent of the voting and non-voting stock of which is owned by a common parent corporation which also has such ownership of the corporation with which such transaction is had.

11.

Transactions between a limited liability company and its member(s), provided the limited liability company has elected to file as a Subchapter K entity under the Internal Revenue Code and that such transaction(s) shall be treated the same as between a partnership and its partner(s) as specified in subsection 9 above;

12. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar;
13. Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the finance department with the name and addresses of the others and amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.

- W. "Indoor" means indoor cultivation of cannabis using exclusively artificial lighting.
- X. "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.
- Y. "Mixed-light" means cultivation of cannabis using any combination of natural and supplemental artificial lighting. Greenhouses, hoop houses, hot houses and similar structures or light deprivation systems are included in this category.
- Z. "Outdoor" means cultivation of cannabis using no artificial lighting conducted in the ground or in containers outdoors with no covering. Outdoor Cultivation does not include greenhouses, hoops houses, hot houses or similar structures.
- AA. "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, syndicate tribe or any other group or combination acting as a unit and includes the plural as well as the singular member.
- BB. "Sale" means and includes any sale, exchange, or barter.
- CC. "Square foot" or "square footage" means the maximum amount of cannabis cultivation area for commercial cannabis cultivation authorized by a city permit issues to a person engaging in a commercial cannabis business, or by a state license in the absence of a city permit or license, not deducting for unutilized square footage, and shall be the basis for the tax base for cultivation.
- DD. "State" means the State of California.
- EE. "State license," means a state license issued pursuant to California Business and Professions Code Sections 19300, et seq. or other applicable State law.
- FF. "Testing laboratory" means a facility, entity, or site in the state that offers or performs testing of cannabis or "cannabis products" and that is both of the following:
- 1.

Accredited by an accrediting body that is independent from all other persons involved in the cannabis industry in the state; and

2. Registered with the California State Department of Public Health.

GG. "Transport" means the transfer of cannabis or cannabis products from the permitted business location of one permittee or licensee to the permitted business location of another permittee or licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to state law.

HH. "Transporter" means a person issued all required state and city permits to transport cannabis or cannabis products between permitted facilities.

(Ord. No. 484, § 1, 7-24-2017)

5.30.040 - Tax authorization.

A cannabis industry tax is hereby imposed on every person who is engaged in a commercial cannabis business in the city as prescribed herein, from and after the effective date of a city council resolution implementing the tax. It is unlawful for any person to transact or carry on any commercial cannabis business in the city without paying, in accordance with this chapter, the cannabis industry tax imposed by this section.

(Ord. No. 484, § 1, 7-24-2017)

5.30.050 - Tax on commercial cannabis business.

- A. Every person who is engaged in a commercial cannabis business in the city shall pay an annual commercial cannabis business tax at a rate established by resolution of the city council which rate shall not exceed twenty-five dollars per square foot of commercial cannabis business area or ten percent of annual gross receipts per fiscal year, whichever is greater. When the rate is determined on a square footage basis, on July 1 of each fiscal year succeeding the year of imposition of a square footage based tax on commercial cannabis businesses, the amount of tax shall be increased by the most recent change in the annual average of the Consumer Price Index ("CPI") for all urban consumers in the San Francisco-Oakland-San Jose areas, as published by the United States Government Bureau of Labor Statistics. However, no CPI adjustment resulting in a decrease of any tax imposed by this subsection shall be made. The tax under this subsection shall not be imposed unless and until the city council acts by resolution to do so.
- B. The taxable square footage calculation shall be determined by including all portions of the premises where the commercial cannabis business operates deducting therefrom driveways, sidewalks, landscaping, vacant unused space, areas used exclusively for office space, employee break rooms, restrooms, and storage space unrelated to the commercial cannabis businesses.

C.

If more than one commercial cannabis business operates on the premises, each person shall be responsible for paying the tax.

- D. The city council may by resolution, in its discretion, implement a tax rate lower than the maximum rates set forth in subsection A for all persons engaged in commercial cannabis business in the city, or establish differing tax rates for different categories of commercial cannabis business, subject to the maximum rate established in subsection A. The city council also may, by resolution, increase any such tax rate from time to time, not to exceed the maximum tax rate established in subsection A of this chapter.

(Ord. No. 484, § 1, 7-24-2017)

5.30.060 - Reporting and remittance of tax.

The commercial cannabis business tax imposed by this chapter shall be imposed on a fiscal year basis and shall be due and payable in quarterly installments as follows:

- A. Each person owning a commercial cannabis business tax shall, on or before the last day of the month following the close of each fiscal year quarter, prepare and submit a tax statement on the form prescribed by the collector and remit to the collector the tax due. The tax due shall be no less than the quarterly installment due, but the taxpayer may at any time pay the tax due for the entire fiscal year. Each commercial cannabis business shall pay on or before the last day of the month following the close of each calendar quarter.
- B. If the commercial cannabis business tax is owed on a commercial cannabis cultivation, the square footage tax due shall be paid based on the square footage of cultivation authorized by the city permit. The tax will not be prorated or adjusted for any reduction in the square footage authorized but not utilized for cultivation. If the cultivation beings in the middle of a fiscal year, the collector shall prorate, in monthly increments, the amount due for the fiscal year.
- C. All tax statements shall be completed on forms prescribed by the Collector.
- D. Tax statements and payments for all outstanding taxes owed to the city are immediately due to the collector upon cessation of business for any reason.
- E. The collector may, as part of administering the tax and in his or her discretion, modify the form of payment and take such other administrative actions as needed to facilitate the collection of the tax.

(Ord. No. 484, § 1, 7-24-2017)

5.30.070 - Registration.

In order that the city will have an accurate record of parties collecting the commercial cannabis business tax, prior to commencing business each person engaged in a commercial cannabis business shall register such commercial cannabis business with the collector, submitting any information deemed necessary to the collector.

(Ord. No. 484, § 1, 7-24-2017)

5.30.080 - Payments and communications—Timely remittance.

Whenever any payment, statement, report, request or other communication is due, it must be received by the collector on or before the final due date. A postmark will not be accepted as timely remittance. If the due date falls on Saturday, Sunday or a holiday, the due date shall be the next regular business day on which the city is open to the public.

(Ord. No. 484, § 1, 7-24-2017)

5.30.090 - Payment—When taxes deemed delinquent.

Unless otherwise specifically provided under other provisions of this chapter, the taxes required to be paid pursuant to this chapter shall be deemed delinquent if not received by the collector on or before the due date as specified in Section 5.30.060.

(Ord. No. 484, § 1, 7-24-2017)

5.30.100 - Notice not required by city.

The collector is not required to send a delinquency or other notice or bill to any person subject to the provisions of this chapter. Failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this chapter.

(Ord. No. 484, § 1, 7-24-2017)

5.30.110 - Penalties and interest.

- A. Any person who fails or refuses to pay any commercial cannabis business tax required to be paid pursuant to this chapter on or before the due date shall pay penalties and interest as follows:
 1. A penalty equal to twenty-five percent of the amount of the tax, in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax at the rate of one and one-half percent per month;
 - 2.

If the tax remains unpaid for a period exceeding one calendar month beyond the due date, an additional penalty equal to twenty-five percent of the amount of the tax, plus interest at the rate of one and one-half percent per month on the unpaid tax; and

3. Interest shall be applied at the rate of one and one-half percent per month on the first day of the month for the full month, and will continue to accrue monthly on the tax until the balance is paid in full.
 - a. Whenever a check or electronic payment is submitted in payment of a commercial cannabis business tax and the payment is subsequently returned unpaid by the bank for any reason, the taxpayer will be liable for the tax amount due plus the return check fee, penalties and interest as provided for in this section, and any other amount allowed under state law.
 - b. The commercial cannabis business tax due shall be that amount due and payable from the first date on which the person was engaged in a commercial cannabis business in the city, together with applicable penalties and interest calculated in accordance with subsection A above.
 - c. Any person whose commercial cannabis business tax is delinquent by at least sixty calendar days may be subject to revocation of the city permit associated with the subject commercial cannabis business.
 - d. The collector is authorized to make an assessment in the manner provided for in Section 5.30.050 of the anticipated tax liability for up to the following four quarters if any person has failed to file one or more returns or payments, or who has filed one or more delinquent returns or payments, in any twelve-month period, without curing the failure or delinquency within sixty days of the original due date after written notice from collector of the failure or delinquency. Failure to remit the anticipated tax within sixty days of the notice of assessment shall be grounds for revocation of the city permit associated with the subject cannabis business.

(Ord. No. 484, § 1, 7-24-2017)

5.30.120 - Refunds and credits.

- A. No refund shall be made of any tax collected to this chapter, except as provided in Section 5.30.130.
- B. No refund of any tax collected pursuant to this chapter shall be made because of the discontinuation, dissolution, or other termination of a business.

(Ord. No. 484, § 1, 7-24-2017)

5.30.130 - Refunds and procedures.

- A. Whenever the amount of any commercial cannabis business tax, penalty or interest has been overpaid, paid more than once, or has been erroneously collected or received by the city under this chapter, it may be refunded to the claimant who paid the tax provided that a written claim for refund is filed with the collector within one year of the date the tax was originally due and payable.
- B. The collector, his or her deputies, or any other city officer charged with the administration of this chapter shall have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of claimant's books and business records after request by the collector to do so. The collector may collect a fee adopted by the city council to pay for the cost of examination and audit should the books and records be provided in a form insufficient to allow the collector to make a determination on the claim for refund.
- C. In the event that the commercial cannabis business tax was erroneously paid and the error is attributable to the city, the city shall refund the amount of tax erroneously paid up to one year from when the error was identified.

(Ord. No. 484, § 1, 7-24-2017)

5.30.140 - Exemptions from the tax.

- A. The provisions of this chapter shall not apply to personal cannabis cultivation.
- B. The provisions of this chapter shall not apply to personal use of cannabis that is specifically exempted from state licensing requirements, that meets the definition of personal use or equivalent terminology under state law, and for which the individual receives no compensation whatsoever related to that personal use.

(Ord. No. 484, § 1, 7-24-2017)

5.30.150 - Administration of the tax.

- A. It shall be the duty of the collector to collect the taxes, penalties and/or fees, and perform the duties required by this chapter.
- B. For purposes of administration and enforcement of this chapter generally, the collector may from time to time promulgate such administrative rules and procedures consistent with the purpose, intent, and express terms of this chapter as he or she deems necessary to implement or clarify such provisions or aid in enforcement.
- C. The collector may take such administrative actions as needed to administer the tax, including but not limited to:

1. Provide to all commercial cannabis business taxpayers forms for the reporting of the tax;
2. Increase tax rates in accordance with this chapter;
3. Provide information to any taxpayer concerning the provisions of this chapter;
4. Receive and record all taxes remitted to the city as provided in this chapter;
5. Maintain records of taxpayer reports and taxes collected pursuant to this chapter;
6. Assess penalties and interest to taxpayers pursuant to this chapter; and
7. Determine amounts owed and enforce collection pursuant to this chapter.

(Ord. No. 484, § 1, 7-24-2017)

5.30.160 - Enforcement—Action to collect.

- A. Any taxes, penalties and/or fees required to be paid under the provisions of this chapter shall be deemed a debt owed to the city. Any person owing money to the city under the provisions of this chapter shall be liable in an action brought in the name of the city for the recovery of such debt. The provisions of this section shall not be deemed a limitation upon the right of the city to bring any other action including criminal, civil and equitable actions, based upon the failure to pay the tax, penalties and/or fees imposed by this chapter or the failure to comply with any provisions of this chapter.
- B. In addition to any other remedies available under federal, state, or local law, if any amount required to be paid to the county under this chapter is not paid when due, the collector may, within three years after the amount is due, record a certificate of lien specifying the amount of taxes, fees and penalties due, and the name and address of the person as it appears on the records of the collector. The lien shall also specify that the collector has complied with all provisions of this chapter in the determination of the amount required to be paid. From the time of the filing of the record, the amount required to be paid, together with penalties thereon, constitutes a lien upon all real property in the county owned by the person, or subsequently acquired by the person before the lien expires. The lien has the force, effect and priority of a judgment lien and shall continue for ten years from the filing of the certificate unless sooner released or otherwise discharged. A fee may be adopted by the city council and collected by the collector to pay for the cost of recording and administering the lien.
- C. At any time within three years after any person is delinquent in the payment of any amount herein required to be paid or within three years after the last recording of a certificate of lien under subsection B of this section, the collector may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the city under this chapter. The warrant shall be directed to the chief of police and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy and sale pursuant to a writ of execution. The collector may pay or

advance to the chief of police, the same fees, commissions and expenses for service provided by law for similar services pursuant to a writ of execution. The collector may approve the fees for publication in the newspaper.

- D. At any time within three years after recording a lien against any person, if the lien is not discharged and released in full, the collector may forthwith seize any asset or property, real or personal (including but not limited to, bank account), of the person and sell at public auction the asset or property, or a sufficient part of it to pay the amount due together with any penalties and interest imposed for the delinquency and any cost incurred on account of the seizure and sale. Assets or property of the person subject to seizure and sale subject to this chapter shall not include any assets or property which is exempt from execution under the provisions of the California Code of Civil Procedure.

(Ord. No. 484, § 1, 7-24-2017)

5.30.170 - Apportionment.

If a commercial cannabis business subject to a commercial cannabis business tax is operating both within and outside the city, it is the intent of the city to apply the commercial cannabis business tax so that the measure of the tax fairly reflects the proportion of the taxed activity actually carried on in the city. For purposes of apportionment as may be required by law, the collector may promulgate administrative procedures for apportionment in accordance with state law.

(Ord. No. 484, § 1, 7-24-2017)

5.30.180 - Constitutionality and legality.

This tax is intended to be applied in a manner consistent with the United States and California Constitutions and state law. None of the tax provided for in this chapter shall be applied in a manner that causes an undue burden upon interstate commerce, a violation of the equal protection and due process clauses of the Constitutions of the United States or the State of California, or a violation of any other provisions of the California Constitution or state law.

(Ord. No. 484, § 1, 7-24-2017)

5.30.190 - Audit and examination of records and equipment.

- A. The collector shall have the power to audit and examine all books and records of any person engaged in commercial cannabis businesses in the city, including both state and federal income tax returns, California sales tax returns, or other evidence documenting the gross receipts of persons engaged in commercial cannabis businesses, and, where necessary, all equipment of any person engaged in commercial cannabis businesses in the city, for the purpose of ascertaining

the amount of commercial cannabis business tax, if any, required to be paid under this chapter, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to this chapter. If such person, after written demand by the collector, refuses to make available for audit, examination or verification such books, records or equipment as the collector requests, the collector may, after full consideration of all information within his or her knowledge concerning the commercial cannabis businesses and activities of the person so refusing, make an assessment against the commercial cannabis business of the taxes estimated to be due under this chapter. The collector may collect a fee adopted by the city council to pay for the cost of examination and audit should the books and records be provided in a form insufficient to allow the collector to make a determination of tax due.

- B. It shall be the duty of every person liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of at least three years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the city, which records the collector shall have the right to inspect at all reasonable times.

(Ord. No. 484, § 1, 7-24-2017)

5.30.200 - Other licenses, permits, taxes, fees, or charges.

Nothing contained in this chapter shall be deemed to repeal, amend, be in lieu of, replace, or in any way affect any requirements for any permit or license required by, under or by virtue of any provision of any other title or chapter of this code or any other ordinance or resolution of the city, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required by, under or by virtue of any other title or chapter of this code or any other ordinance or resolution by the city. Any references made or contained in any other title or chapter of this code to any licenses, license taxes, fees, or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other titles or chapters of this code.

(Ord. No. 484, § 1, 7-24-2017)

5.30.210 - Change of ownership.

- A. If any person, while liable for any amount under this chapter, sells, assigns or otherwise transfers the commercial cannabis business, whether voluntarily or involuntarily, the person's successor, assignee or other transferee, or other person or entity obtaining ownership or control of the business ("transferee"), shall satisfy any tax liability owed to the city associated with the business when due hereunder. Failure to do so for the benefit of the city will result in being personally liable to the city for the full amount of the unpaid tax liability, interest and penalties. The transferee shall notify the collector of the date of transfer at least thirty days before the transfer date; or if the agreement to sell, transfer, or otherwise dispose of the business was made less

than thirty days before the date of transfer, notice shall be provided immediately upon the existence of the agreement. All transferees are required to meet each and every condition outlined in this chapter and have prior written approval of the city prior to the transfer.

- B. The transferee shall be deemed to have complied with the requirement of this section to satisfy the unpaid tax liability if the transferee complied with the requirements of California Revenue and Taxation Code Section 7283.5 by withholding from the purchase price, for the benefit of the city, an amount sufficient to cover the tax liability, or by otherwise paying the tax liability and obtaining from the collector a "tax clearance certificate" showing that all outstanding tax liability has been paid and stating that no amount is due through the date of transfer.
- C. The collector, within ninety days of receiving a written request from the transferee, may issue a "tax clearance certificate" stating either the amount of tax liability due and owing for the business, or stating that there is no tax liability due and owing for the business through a stated date. The collector may also request financial records from the current or former owner or operator of a commercial cannabis business to audit the tax that may be due and owing. The collector shall issue a "tax clearance certificate" within thirty days of completing the audit, state the amount of the tax liability owed, if any, unless the collector determines that the records provided in connection with the audit are insufficient to determine whether taxes are due and owed or in what amount. If the collector determines that the records are insufficient, the collector may rely on the facts and information available to estimate any tax liability. The collector may issue a "tax clearance certificate" stating the amount of the tax liability, if any, based on such facts and information available. Unless an appeal is filed in accordance with Section 5.30.270, the "tax clearance certificate" shall serve as conclusive evidence of the tax liability associated with the property through the date stated on the "tax clearance certificate."

(Ord. No. 484, § 1, 7-24-2017)

5.30.220 - Payment of taxes does not authorize unlawful business.

- A. The payment of a tax required by this chapter, and its acceptance by the city, shall not entitle any person to carry on any commercial cannabis business unless the person has complied with all of the requirements of this code and all other applicable state laws.
- B. No tax paid under the provisions of this chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any local or state law.

(Ord. No. 484, § 1, 7-24-2017)

5.30.230 - Deficiency determinations.

If the collector is not satisfied that any tax return or other statement filed as required under this chapter is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency determination upon the facts contained in the tax return or statement or any information in his or her possession or that may come into his or her possession within three years of the date the tax was originally due and payable, or such later date as allowable by law. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a business, a deficiency determination may be made at any time within three years thereafter, or such later date as allowable by law, as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under Section 3.20.100.

(Ord. No. 484, § 1, 7-24-2017)

5.30.240 - Failure to report.

- A. Under any of the following circumstances and at any time, the collector may make and give notice of an assessment of the amount of tax owed by a person under this chapter:
1. If the person has not filed a complete return or statement required under this chapter;
 2. If the person has not timely paid any tax, fee, interest and/or penalty due under this chapter;
 3. If the person has not, after demand by the collector, filed a corrected return or statement, or furnished to the collector adequate substantiation of the information contained in a return or statement filed previously; or
 4. If the collector determines that the nonpayment of any business tax due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this chapter and any other penalties allowed by law.
- B. The notice of assessment shall separately set forth the amount of any tax known by the collector to be due or estimated by the collector, after consideration of all information within the collector's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this chapter, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

(Ord. No. 484, § 1, 7-24-2017)

5.30.250 - Tax assessment—Notice requirements.

The notice of assessment shall be served upon the person either by personal delivery, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as he, she or it shall register with the collector for the purpose of receiving notices provided under this chapter, or, should the person have no address registered with the collector for such purpose, then to such person's last known address. For the purposes of this section, a service by mail is complete at the time of deposit in the United States mail.

(Ord. No. 484, § 1, 7-24-2017)

5.30.260 - Tax assessment—Hearing, application, and determination.

Within ten calendar days from the date of service, the person may apply in writing to the collector for a hearing on the assessment. If application for a hearing before the city is not made within the time here prescribed, the tax assessed by the collector shall become final and conclusive. Within thirty business days of the receipt of any such application for hearing, the collector shall cause the matter to be set for hearing before him or her not later than thirty-five business days after the receipt of the application, unless a later date is agreed to by the collector and the person requesting the hearing. Notice of such hearing shall be given by the collector to the person requesting such hearing not later than five business days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the collector should not be confirmed and fixed as the tax due. After such hearing, the collector shall determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in Section 5.30.250 for giving notice of assessment. The amount determined to be due shall be payable after thirty calendar days of written notice unless it is appealed to the city council.

(Ord. No. 484, § 1, 7-24-2017)

5.30.270 - Appeal procedure.

Any taxpayer aggrieved by any decision of the collector with respect to the amount of tax, fee, interest and penalties, if any, due under this chapter may appeal to the city manager by filing a written appeal with the clerk of the Farmersville City Council within fifteen calendar days of the mailing of the decision or determination. The clerk shall schedule the appeal and give fifteen days written notice to the appellant of the time and place of hearing by serving the notice personally or by depositing in the United States Post Office in the city, postage prepaid, addressed as shown on the appeal papers or, if none, such other address as is known to the city or, absent any address, by publication in a newspaper of general circulation in the city. The city manager shall have authority to determine all questions raised on such appeal. No such determination shall conflict with any substantive provision of this chapter.

(Ord. No. 484, § 1, 7-24-2017)

5.30.280 - Conviction for chapter violation—Taxes not waived.

The conviction and punishment of any person for failure to pay a required tax, fee, penalty and/or interest under this chapter shall not excuse or exempt such person from any civil action for the amounts due under this chapter. No civil action shall prevent a criminal prosecution for any violation of the provisions of this chapter or of any state law requiring the payment of all taxes.

(Ord. No. 484, § 1, 7-24-2017)

5.30.290 - Violation deemed misdemeanor.

Any person who violates any provision of this chapter or who other than by a sworn statement, knowingly or intentionally misrepresents to any officer or employee of the city any material fact herein required to be provided is guilty of a misdemeanor punishable as provided in Section 1.12.010 of this code. A person who on a sworn statement states as true a material fact that he or she knows to be false is guilty of perjury.

(Ord. No. 484, § 1, 7-24-2017)

5.30.300 - Remedies cumulative.

All remedies prescribed under this chapter shall be cumulative and the use of one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof.

(Ord. No. 484, § 1, 7-24-2017)

5.30.310 - Amendment or repeal.

This chapter may be repealed or amended by ordinance of the Farmersville City Council without a vote of the people except that, as required by Article XIIC of the California Constitution, voter approval is required for any amendment that would increase the rate of any tax levied pursuant to this chapter above the maximum rates established by this chapter. The people of the City of Farmersville affirm that the following actions shall not constitute an increase of the rate of a tax:

- A. The restoration of the rate of the tax to a rate that is no higher than that set by this chapter, if the city council has acted to reduce the rate of the tax;
- B. An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this chapter;
- C. The collection of the tax imposed by this chapter, even if the city had, for some period of time, failed to collect the tax;

- D. The establishment of a class of persons that is exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception specifically set forth in this chapter); or
- E. The city council's adoption of an Ordinance, as authorized by Section 5.30.040, to raise the tax rate provided that the rate is not increased to a rate higher than the maximums established herein.

(Ord. No. 484, § 1, 7-24-2017)

5.30.320 - Suspension of collection.

The city council shall have authority to temporarily suspend collection of the tax imposed by this chapter by resolution unanimously approved by all members of the entire city council, subject to the restrictions in the city agreement with the State Board of Equalization. However, the authority to levy the tax imposed by this chapter shall not expire or otherwise terminate, unless terminated by a duly enacted ordinance which is approved at a regular meeting of, and by unanimous vote of all of the seats on, the city council.

(Ord. No. 484, § 1, 7-24-2017)

Chapter 5.40 - REGULATION OF SIDEWALK VENDORS

Sections:

5.40.010 - Purpose.

- A. The purpose of this chapter is to establish a permitting and regulatory program for sidewalk vendors that complies with Senate Bill 946 (Chapter 459, Statutes 2018). The provisions of this chapter allow the city to encourage small business activities while permitting regulation and enforcement of unpermitted sidewalk vending activities to protect the public's health, safety, and welfare.
- B. The city council hereby finds that to promote the public's health, safety, and welfare, restrictions on sidewalk vending are necessary to:
 1. Ensure no reasonable interference with the flow of pedestrian or vehicular traffic including ingress into, or egress from, any residence, public building, or place of business, or from the street to the sidewalk, by persons exiting or entering parked or standing vehicles;
 2. Provide reasonable access for the use and maintenance of sidewalks, pathways, poles, posts, traffic signs or signals, hydrants, water valves, manholes, storm drains, catch basins, firefighting apparatus, mailboxes, or other utilities or appurtenances, as well as access to locations used for public transportation services;

3. Reduce exposure to the city for personal injury or property damage claims and litigation; and
 4. Ensure sidewalk vending activities occur only in locations where such activities would not restrict sidewalk and pathway access and enjoyment to all users, particularly those with disabilities.
- C. This chapter shall not apply to the following:
1. Catering trucks or vehicles from which food is being sold and other motorized vehicles on public streets or alleys in accordance with Section 17.68.100 of this code;
 2. Vendors under contract for city-sponsored and city-approved special events including, but not limited to, a farmers' market, swap meet, street fair, parades, festivals, and outdoor concerts;
or
 3. Vendors participating in city-approved temporary outdoor uses in accordance with Section 17.56.040 of this code.

(Ord. No. 491, 5-28-2019)

5.40.020 - Definitions.

- A. "Cart" means a stationary cart or a mobile cart.
- B. "Food" means any type of edible substance or beverage and any item provided in Health and Safety Code Section 113781, or any successor section.
- C. "Goods" or "merchandise" means any item that can be sold and immediately obtained from a vendor which is not food.
- D. "Mobile cart" means a piece of equipment used for vending which is mobile but has no motor and is capable of being propelled by a single person.
- E. "Person" or "persons" means one or more natural persons, individuals, groups, businesses, business trusts, companies, corporations, joint ventures, joint stock companies, partnership, entities, associations, clubs or organizations composed of two or more individuals (or the manager, lessee, agent, servant, officer or employee of any of them), whether engaged in business, nonprofit or any other activity.
- F. "Pocket park" means any park located in residential neighborhoods. These parks are situated near individual private residences.
- G. "Sidewalk" means any surface in the public right-of-way provided for the exclusive use of pedestrians.
- H. "Stationary cart" means a piece of equipment used for vending, which has no motor and is not mobile, except when being pushed, carried or transported to and from a space on the sidewalk on a daily basis.
- I.

"Vend," "vends," or "vending" means to sell, offer for sale, expose or display for sale, solicit offers to purchase, or to barter food or merchandise, or to require someone to negotiate, establish, or pay a fee before providing food or merchandise, even if characterized as a donation.

J. "Vending permit" means a written city approval required for each cart used for vending in the city.

K. "Vendor" means a person who vends.

(Ord. No. 491, 5-28-2019)

5.40.030 - Permit required.

- A. Every person who engages in vending is a vendor and must first obtain, and at all times maintain, a valid vending permit from the city manager, or his or her designee, in accordance with this chapter.
- B. Every vendor must vend in compliance with the terms and conditions of the vending permit.
- C. To apply for a vending permit, the vendor must present valid identification, such as a State of California identification or any other government-issued identification card and provide the following information:
 1. The name, address, and telephone number of the vendor and of all persons that will be employed to vend for the vendor.
 2. Proof of liability insurance of such types and such amounts required by the city manager.
 3. An agreement by the vendor to defend, indemnify, release and hold harmless the city, its city council, boards, commissions, officers, and employees from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relating (directly or indirectly) to the vending permit or the vendor's vending activities. This indemnification shall include, but not be limited to, damages awarded against the city, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, or proceeding whether incurred by the vendor, vendor's agent, the city, or the parties initiating or bringing such proceeding.
 4. An acknowledgment that the vendor's use of public property is at their own risk, that the city does not take any steps to ensure public property is safe or conducive to the vending activities, and the vendor's use of public property is at his or her own risk.
 5. A vendor who sells food shall provide proof of completion of a food handler training course.
 6. The number of carts the vendor will operate within the city under the vending permit, but not to exceed three.
 7. The type of cart (mobile or stationary) the vendor intends to operate.

- a. If a stationary cart, the location in the city where the vendor will operate, a description or site plan map of the proposed location, showing that the stationary cart maintains a minimum of thirty-six inches of accessible route area, in compliance with the American Disabilities Act.
8. Proof that every cart used to vend food within the city is approved by the Tulare County Health Department. A cart approved by the health department to vend one type of food may not be used to vend a different type of food.
9. Proof of the vendor's possession of a valid California department of tax and fee administration seller's permit, which shall be maintained during the pendency of the vendor's permit.
10. An acknowledgment that the vendor will comply with all other generally applicable local, state, and federal laws.
11. A vending permit must be renewed every year, prior to expiration. A vending permit expires one year from the date it is issued.
12. No permit is transferable. Any change in ownership or operation of a cart requires a new vending permit.
13. The applicant must pay an application or renewal fee as established by resolution of the city council. If the application is approved, it shall not be necessary for the permittee to obtain a city business license to carry on activities authorized by the vending permit, unless the applicant maintains a permanent place of business within the city.

(Ord. No. 491, 5-28-2019)

5.40.040 - Issuance of permit.

- A. Within thirty days of receiving a complete application determined at the sole discretion of the city manager or designee, the city manager may issue a vending permit, with appropriate conditions, if he or she finds based on all the relevant information that:
 1. The conduct of the vendor will not unduly interfere with traffic or pedestrian movement, or tend to interfere with or endanger the public peace or rights of nearby residents to the quiet and peaceable enjoyment of their property, or otherwise be detrimental to the public peace, health, safety, or general welfare;
 2. The conduct of the vendor will not unduly interfere with normal governmental or city operations, threaten to result in damage or detriment to public property, or result in the city incurring costs or expenditures in either money or personnel not reimbursed in advance by the vendor;
 3. The vending will not constitute a fire hazard, and all proper safety precautions will be taken;
 - 4.

The vending will not require the diversion of police officers to properly police the area of such activity as to interfere with normal police protection for other areas of the city;

5. The vendor has not had a permit revoked within the same calendar year;
6. The vendor has satisfied the requirements of this chapter;
7. The vendor has paid all applicable fees as set by city council resolution;
8. The cart and proposed activities conform to the requirements of this chapter;
9. The vendor has adequate insurance to protect the city from liability associated with the vendor's activities, including naming the city as an additional insured, as determined by the city manager or city's risk manager; and
10. The vendor has satisfactorily and truthfully provided all information requested by the city manager to consider the application.

(Ord. No. 491 , 5-28-2019)

5.40.050 - Operating conditions.

- A. Every cart used for vending must obtain a vending permit.
- B. Every cart must be placed and used at all times in compliance with the terms and conditions of the vending permit and abide by all applicable laws and regulations.
- C. All vendors are prohibited from vending between the hours of ten p.m. and seven a.m. daily. In residential areas, all vending is prohibited between the hours of eight p.m. or sunset, whichever is earlier, and seven a.m. daily.
- D. A Vending permit must be renewed every year, prior to expiration.
- E. A vendor may not use a stationary cart to vend in a residential area. Only a mobile cart may be used to vend in a residential area.
- F. A vendor may operate a stationary cart only in commercial or industrial zones.
- G. No more than two stationary carts with approved vending permits may be used to vend on the sidewalk of a single block face.
- H. A vendor who vends in a residential area with a mobile cart shall move continuously, except when conducting a sale, which must last no more than seven minutes per sale.
- I. A decal issued by the city certifying the issuance of a vending permit for the cart shall be attached to and prominently displayed on each cart in use by a vendor.
- J. A cart approved to vend food by the Tulare County Health Department shall prominently display the county-issued permit on the approved cart.
- K. Every stationary cart must not exceed a length of eight feet, a width of five feet, or a height, including roof, awning, or umbrella of nine feet. A vending permit application may request, and the city may approve, a small table for condiments to be used in conjunction with a cart selling

food.

- L. Every mobile cart must not exceed a length of seven feet, a width of three feet, or a height of four feet. A vending permit application may request, with a picture, and the city may approve, a shade structure such as an umbrella attached to a mobile cart. The shade structure may not impede the flow of pedestrian traffic.
- M. A food vendor must provide a trash receptacle for customers large enough to accommodate the proper disposal of customer trash. A vendor may not dispose of customer trash in existing trash receptacles.
- N. A vendor must immediately clean up any food, grease, or other fluid or item related to vending and maintain a clean and trash-free ten-foot radius from the vendor's cart during hours of operation and must leave the area clean by the approved closing time.
- O. A vendor shall not approach persons to sell food or merchandise and shall not interfere in any way with anyone engaged in an activity to sell food or merchandise.
- P. A vendor shall comply with the noise standards provided in Chapter 9.04 of this code and any successor chapters.
- Q. No cart, condiment table, or vendor's trash receptacle may be left on the sidewalk after the vendor's approved closing time.
- R. No cart, condiment table, or vendor's trash receptacle shall be chained or fastened to any pole, sign, tree, or another object in the public right-of-way or left unattended.
- S. Vending within five hundred feet of any K-12 school is prohibited from six a.m. through six p.m.
- T. Vending of illegal or counterfeit merchandise is prohibited.
- U. Vending of services is prohibited.
- V. Renting merchandise to customers is prohibited.
- W. Using an open flame on or within any cart is prohibited.
- X. A Vendor shall not conduct transactions with persons in moving vehicles or illegally parked or stopped vehicles.

(Ord. No. 491 , 5-28-2019)

5.40.060 - Placement of carts.

- A. Carts, food, and merchandise shall be prohibited:
 - 1. Within five feet of a marked crosswalk.
 - 2. Within five feet of the curb return of an unmarked crosswalk.
 - 3. Within twenty-five feet of any fire hydrant, fire call box, or other public utility.
 - 4. Within twenty-five feet of a marked bus zone, a curb designated as yellow or red zone, and handicapped parking spaces or access ramps.

5. Within five feet of a bus bench.
 6. Within ten feet of a transit shelter.
 7. On an area improved with lawn, flowers, shrubs, trees, street tree well, or other landscaping.
 8. Within five feet of a driveway or driveway apron.
 9. Within fifteen feet of an outdoor dining or patio dining area.
 10. Within eighteen inches from the edge of the curb.
 11. Within two hundred feet of an area designated for a temporary special permit issued by the city, during the limited duration of the temporary special permit. If the city provides any notice, business interruption mitigation, or other rights to affected businesses or property owners under the city's temporary special permit, such notice will also be provided to the vendors specifically permitted to operate in the area, if applicable.
 12. Within fifty feet of another vendor.
 13. Within two hundred feet of a permitted farmer's market or swap meet.
 14. On any sidewalk where a cart and queuing patrons would restrict the accessibility requirements under the Americans with Disabilities Act.
 15. Where placement impedes the flow of pedestrian traffic by reducing the clear space to less than three feet or impedes access to or the use of abutting property, including, but not limited to, residences, and places of business.
 16. On city-owned property without prior city approval or from connecting to any public utilities.
 17. Stationary carts are prohibited:
 - a. In any Pocket Park. These parks are small by design and adjacent to individual private residences. The prohibition will prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park and quiet enjoyment of residential neighborhoods. Stationary carts will result in increased traffic, noise, and crowding, resulting in health, welfare, and safety issues.
 - b. At any park where the city has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire.
 - c. At Roys Park. Such restriction is necessary to ensure the public's use and enjoyment of the natural resources and recreational activities provided by this park. Visitors use this park to enjoy the large and numerous trees and as an escape from commercial activity. Stationary carts will cause a direct contravention with its purpose.
- B. Notwithstanding any specific prohibitions in this subsection, no vendor shall install, use, or maintain a cart in a manner that endangers the safety of persons or property.

(Ord. No. 491, 5-28-2019)

5.40.070 - Penalties.

- A. Violations of this chapter shall not be prosecuted as infractions or misdemeanors and shall be only punished by the following administrative fine and rescission provisions:
 - 1. An administrative fine not exceeding one hundred dollars for a first violation;
 - 2. An administrative fine not exceeding two hundred dollars for a second violation within one year of the first violation; and
 - 3. An administrative fine not exceeding five hundred dollars for each additional violation within one year of the first violation.
- B. The city manager, or his or her designee, may rescind a permit issued to a vendor for the term of that permit upon the fourth violation or subsequent violations, or for fraud or misrepresentation in the application for the permit.

(Ord. No. 491, 5-28-2019)

5.40.080 - Appeals.

- A. Decisions to deny an application for a permit or to impose administrative fines may be appealed by any interested person in accordance with the provisions outlined in Sections 1.13.060 through 1.13.100 of this code, except as modified by this chapter.
- B. No hearing shall be held unless and until the fine or penalty has been deposited with the city, or an advance deposit hardship waiver has been issued by the hearing officer.
- C. If an administrative fine is the subject of an appeal, the hearing officer shall take into consideration the person's ability to pay the fine. The hearing officer shall provide the person with a notice of his or her right to request an ability-to-pay determination. The person may request an ability-to-pay determination at or before the hearing or while the administrative fine remains unpaid.
- D. If the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, or any successor section, the hearing officer shall accept, in full satisfaction, twenty percent of the administrative fine imposed pursuant to this chapter.
- E. The hearing officer may allow the person to complete community service instead of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition.

(Ord. No. 491, 5-28-2019)